

ZB# 95-36

Linwood Rhodes

13-5-29

Prelim.

June 26, 1995.

Letters out - 8/30/95.

OC PD - 4

Short form EAF 4

Notice to Paper 6/29/95.

Need copy

① ~~Contract~~ Contract

② Title

③ Fees 150.00 out

500.00

④ Photos. - Paul

Tabled action
to 8/14/95.

Tabled action
to Sept. 11, 1995.

Denied

1 Copy
3 Noddy
1 Abst.

Refund \$90.00
11/13/95

#95-36 - Rhodes, Linwood

use/area

13-5-29.

TOWN OF NEW WINDSOR
555 Union Avenue
New Windsor, NY 12550

GENERAL RECEIPT

14720

July 5 1995

Received of Linwood Rhodes, Jr. \$ 150.00

One Hundred fifty 00/100 DOLLARS

For ZBA # 95-36

DISTRIBUTION:

FUND	CODE	AMOUNT
Ch # 476		150.00

By Dorothy W. Hansen

Town Clerk

Title

APPLICATION FEE (DUE AT TIME OF FILING OF APPLICATION)

APPLICANT: Rhodes, Linwood
Santoni Alex - owner

FILE # 95-36

RESIDENTIAL: \$50.00

COMMERCIAL: \$150.00

APPLICATION FOR VARIANCE FEE \$ 150.00 paid

* * * * *

7/5/95. CK #426

ESCROW DEPOSIT FOR CONSULTANT FEES \$ 500.00

7/5/95. paid CK #475

DISBURSEMENTS -

STENOGRAPHER CHARGES:

PRELIMINARY MEETING - PER PAGE	6/26/95 - 14 pages	\$ 63.00
2ND PRELIM. MEETING - PER PAGE	7/10/95 - 25 pages	\$ 112.50
3RD PRELIM. MEETING - PER PAGE	8/14/95 - 8 pages	\$ 36.00
PUBLIC HEARING - PER PAGE	9/11/95 - 13 pages	\$ 58.50
PUBLIC HEARING (CONT'D) PER PAGE		\$
TOTAL		\$ <u>270.00</u>

ATTORNEY'S FEES:

PRELIM. MEETING-	HRS.	6/26/95	\$ 35.00
2ND PRELIM.	HRS.	7/10/95	\$ 35.00
3RD PRELIM.	HRS.	8/14/95	\$ 35.00
PUBLIC HEARING	HRS.	9/11/95	\$ 35.00
PUBLIC HEARING	HRS. (CONT'D)		\$
FORMAL DECISION	HRS.		\$

TOTAL HRS. _____ @ \$ _____ PER HR. \$ _____
 TOTAL \$ 140.00

MISC. CHARGES:

_____ TOTAL \$ 410.00

LESS ESCROW DEPOSIT . . . \$ 500.00
 (ADDL. CHARGES DUE) . . . \$
 REFUND TO APPLICANT DUE . \$ (90.00)

(ZBA DISK#7-012192.FEE)

LINWOOD RHODES, JR.
37 SOUTH ST.
HIGHLAND FALLS, NY 10928

50-235
219 615

476

June 30, 1995

PAY TO THE
ORDER OF

TW of New Windsor

\$ 150 ⁰⁰/₁₀₀

One Hundred & Fifty Dollars ⁰⁰/₁₀₀

DOLLARS

THE BANK OF NEW YORK

202 MAIN ST., HIGHLAND FALLS, N.Y. 10928

MEMO

ZBA Warrington Rd #95-36 Linwood Rhodes Jr. NP

⑆021902352⑆ ⑈6800543892⑈ 0476

BNY STYLE 60

NEW YORK'S FIRST BANK FOUNDED 1794

LINWOOD RHODES, JR.
37 SOUTH ST.
HIGHLAND FALLS, NY 10928

50-235
219 615

475

June 30, 1995

PAY TO THE
ORDER OF

TW of New Windsor

\$ 500 ⁰⁰/₁₀₀

Five Hundred Dollars ⁰⁰/₁₀₀

DOLLARS

THE BANK OF NEW YORK

202 MAIN ST., HIGHLAND FALLS, N.Y. 10928

MEMO

ZBA Warrington Rd #95-36 Linwood Rhodes Jr. NP

⑆021902352⑆ ⑈6800543892⑈ 0475

BNY STYLE 60

NEW YORK'S FIRST BANK FOUNDED 1794

[illegible]

-----X
In the Matter of the Application of

LINWOOD RHODES

DECISION DENYING
USE/AREA VARIANCES#95-36.

-----X

WHEREAS, LINWOOD RHODES, 37 South Street, Highland Falls, New York, 10928, has made application before the Zoning Board of Appeals for a use variance for a funeral home in an R-4 zone and an area variance for 17 off-street parking spaces proposed for 161 Walsh Road; and

WHEREAS, a public hearing was held on the 10th day of July, 1995, the 14th day of August, 1995, and the 11th day of September, 1995 before the Zoning Board of Appeals at the Town Hall, New Windsor, New York; and

WHEREAS, the Applicant appeared by himself and by Anthony Cappola, RA; and

WHEREAS, there were 13 spectator appearing at the public hearing; and

WHEREAS, at least five spectators spoke in opposition to the application and one spoke in favor of it. And, further, 13 letters supporting the application were received and considered by the Zoning Board of Appeals; and

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following findings in this matter:

1. The notice of public hearing was duly sent to residents and businesses as prescribed by law and published in The Sentinel, also as required by law.

2. The evidence presented by the applicant showed that:

(a) The property is zoned R-4, a residential use.

(b) The property is a former commercial use which has been discontinued in excess of two years.

(c) The property is located in a mixed neighborhood of residential and commercial uses.

(d) The applicant seeks permission to use the property as a funeral home catering to Afro-American clientele and has argued that the customs and requirements of that community are different from those of funeral homes in general and make such a use appropriate for this property where the property may not be appropriate for a more conventional funeral home use, due to its small size.

(e) The applicant stated that those for whom he intends to provide funeral services do not customarily have calling hours or other visitation at the funeral home and so the parking requirements would not be the same as for a more customary funeral home use.

(f) A letter from Lease Realtors was received and considered by the Zoning Board of Appeals which letter stated the opinion of the realtors as to the "highest and best" use of the property. No one was present at the hearing or either adjourned date thereof from the realtors to testify and/or be subject to the questions of the Board or others.

(g) It was the opinion of the applicants' architect, Mr. Cappola, that none of the permitted uses in the R-4 zone would "seem obtainable".

(h) The applicant is not the owner of the premises but is a contract-vendee. The application does not appear to be self-created in that the official applicants are the present owners of the premises, Alex Santoro and Robert Kohl, and they have done nothing to change the property or create any hardship.

(i) Thirteen (13) letters were received from the neighbors supporting the application and were considered by the Board in making its decision. In addition, a letter was received from Lease Realtors in support of the application and was also considered by the Board in making its decision.

WHEREAS, the Zoning Board of Appeals of the Town of New Windsor makes the following conclusions of law in this matter:

1. The applicants have not proven to the Board's satisfaction that they cannot realize a reasonable return as demonstrated by competent financial evidence for each and every use permitted in the R-4 zone. The applicants have shown that the property is completely paved so that agricultural uses, public parks and playgrounds and commercial forestry, and outdoor recreational uses are inappropriate. In addition, the applicants have submitted evidence accepted by the Board, showing that the property cannot be used for building structures and uses owned and operated by the Town of New Windsor since the Town of New Windsor has no interest in the property. The applicants have not submitted sufficient evidence with respect to inability to use the property for public elementary and high schools operated by the People of the State of New York or any of the uses involving one-family detached dwellings (uses 8, 9, and 10).

2. Any hardship relating to the property in question would, if it had been proven, appear to be unique in that the property is unlike any other properties in the neighborhood or district.

3. No finding is made by the Board with respect to whether or not a granting of the requested use variance would result in an alteration of the essential character of the neighborhood since the question is moot in view of the applicant's inability to prove lack of reasonable return as set forth above.

4. It appears that the hardship alleged by the applicants has not been self-created in that the applicants have owned the property for some time and have not altered or changed the property in any way since it received its present zoning designation. The application would be prohibited as having been self-created if the contract-vendee, Mr. Rhodes, had actually purchased the property prior to the variance application.

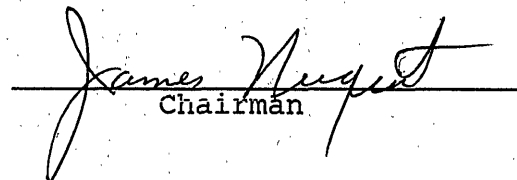
NOW, THEREFORE, BE IT

RESOLVED, that the Zoning Board of Appeals of the Town of New Windsor DENY a use and area variance for the property at 161 Walsh Road, in an R-4 zone, as sought by the applicant in accordance with plans filed with the Building Inspector and presented at the public hearing.

BE IT FURTHER,

RESOLVED, that the Secretary of the Zoning Board of Appeals of the Town of New Windsor transmit a copy of this decision to the Town Clerk, Town Planning Board and applicant.

Dated: November 13, 1995.


Chairman

(ZBA DISK#13-110895.LR)



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
(914) 563-4610
FAX 914-563-4693

OFFICE OF THE SUPERVISOR

ZBA

file

Rhodes

August 16, 1995

Mr. Anthony Coppola, RA
175 Liberty Street
Newburgh, NY 12550

Dear Mr. Coppola,

I am writing to you regarding your correspondence dated August 8th concerning the property at 161 Walsh Road.

At this time the Town of New Windsor is not interested in purchasing or developing this lot for its own use. However, the Town reserves the right to purchase or develop this lot in the future.

If I can be of any further assistance, please call my office.

Very truly yours,



George J. Meyers, Supervisor
Town of New Windsor

GJM/dg

cc: James Nugent, ZBA Chairman
Michael Babcock, Building Inspector

~~PAUL BARNARD, A ROBBINS OFFICE~~



TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

1763

June 28, 1995

Linwood Rhodes
37 South Street
Highland Falls, N. Y. 10928

Re: Tax Map Parcel #13-05-29

Dear Mr. Rhodes:

According to our records, the attached list of property owners are within five Hundred (500) feet of the above-referenced property.

The charge for this service is \$95.00, minus your deposit of \$25.00, leaves a balance due of \$70.00.

Sincerely,

LESLIE COOK
Sole Assessor

/pab
Attachment
cc: Patricia A. Barnhart

Ralph J. & Robert J. Petrillo
Gary Dreyer
150 Walsh Road
New Windsor, N. Y. 12553 X

Harry T. & Mary C. Connolly
162 Walsh Avenue
New Windsor, N. Y. 12553 X

Frederick & Shirley Zamenick
160 Walsh Avenue
New Windsor, N. Y. 12553 X

Michael J. Pettine, Jr.
Geraldine A. and Frederick Lee
102 Clancy Avenue
New Windsor, N. Y. 12553 X

James D. and Geraldine A. Lee
12 Lawrence Avenue
New Windsor, N. Y. 12553 X

Edward L. Thompson, Jr.
22 Lawrence Avenue
New Windsor, N. Y. 12553 X

Anthony Messina
15 Merline Avenue
New Windsor, N. Y. 12553 X

Gary and Darla Dreyer
18 Veronica Avenue
New Windsor, N. Y. 12553 X

Estate of Francis McCarthy
140 John Street
New Windsor, N. Y. 12553 X

Louis E. and Kimberly H. Lanton
138 John Street
New Windsor, N. Y. 12553 X

James and Marianne Post
136 John Street
New Windsor, N. Y. 12553 X

Wilson Robles
24 Oregon Avenue
Meridan, CT 06450 X

Joseph Peragine
333 East 55th Street - Apt. 10G
New York, N. Y. 10022

Gina Pietrobuono
128 John Street
New Windsor, N. Y. 12553 4

James J. and Irene Brown
X

126 John Street
New Windsor, N. Y. 12553

Nancy Lee and William J. Mitchell
124 John Street
New Windsor, N. Y. 12553 X

Elizabeth Stone
122 John Street
New Windsor, N. Y. 12553 X

Kenneth and Barbara Ellingsen
120 John Street
New Windsor, N. Y. 12553 X

Edward C. and Emma F. Stent
118 John Street
New Windsor, N. Y. 12553 X

James and Dorothy T. McDaniel
116 John Street
New Windsor, N. Y. 12553 X

Samuel and Masako DePace
112 John Street
New Windsor, N. Y. 12553 X

Thomas E. and Marlene F. Van Zandt
108 John Street
New Windsor, N. Y. 12553 X

Richard Ostner
R. D. 2 - Bethlehem Road
New Windsor, N. Y. 12553 X

Specialty Powder Metallurgy Products Corp.
23 Spring Rock Road
New Windsor, N. Y. 12553 X

Gerard and Cheryl Guilliod
4 Orfeo Road
Wallkill, N. Y. 12589 X

Robert James Sager
133 John Street
New Windsor, N. Y. 12553 X

John N. and Georgette H. Evans
30 Hilltop Drive
New Windsor, N. Y. 12553 X

Rutila and Josefina Garcia
123 John Street
New Windsor, N. Y. 12553 X

Tommaso and Loretta Sirio
119 John Street
New Windsor, N. Y. 12553 X

Constantino and Kathi DeSousa
P. O. Box 4218
New Windsor, N. Y. 12553 X

Richard and Linda S. Ostner
66 Union Avenue
New Windsor, N. Y. 12553 X

Michael and Donna Collins
6 Cedar Avenue
New Windsor, N. Y. 12553 X

Bridge Road Realty Corp.
102 Windsor Highway
New Windsor, N. Y. 12553 X

John and Mary Carney
5 High Street
New Windsor, N. Y. 12553 X

Yvonne Conklin
23 High Street
New Windsor, N. Y. 12553 X

Cathleen Perren
27 High Street
New Windsor, N. Y. 12553 X

Thomas and Karen D. Russell
165 Walsh Avenue
New Windsor, N. Y. 12553 X

Charles E. and Frances R. Rumsey
192 Walsh Road
New Windsor, N. Y. 12553 X

Nancy M. Blinn
P. O. Box 2618
Newburgh, N. Y. 12550 X

Quassaick Fire Engine Co. of New Windsor
Walsh Road
New Windsor, N. Y. 12553 X

Charles Babcock
155 Walsh Avenue
New Windsor, N. Y. 12553 X

FWAR, Inc.
137 Walsh Avenue
New Windsor, N. Y. 12553 X

Salko-Mable Furniture Inc.
170 Walsh Road
New Windsor, N. Y. 12553 X

Elizabeth F. Rahm
15 Lawrence Avenue X

New Windsor, N. Y. 12553

Eileen G. Hedden
Irene Shafer
% Eileen G. Sharrow
19 Lawrence Avenue
New Windsor, N. Y. 12553

Chester J. and Evelyn T. Grzibowski
12 Melrose Avenue
New Windsor, N. Y. 12553

Joseph F. and Gail M. Vesely
172 Walsh Avenue
New Windsor, N. Y. 12553

Albert J., Albert A. and Alison Coritz
178 Walsh Avenue
New Windsor, N. Y. 12553

Leon and Dixie Mehl
R. D. 1 - Rock Cut Road
Walden, N. Y. 12586

Edward, Frederick and John Henry Sloboda
% Sloboda Bros. Inc.
901 Route 52
Walden, N. Y. 12586

Stephen and Shirley June Ferrara
1 Ora Street
New Windsor, N. Y. 12553

John and Linda Marullo
10 Blanche Avenue
New Windsor, N. Y. 12553

John T. and Angela Babcock
12 Blanche Avenue
New Windsor, N. Y. 12553

Richard F. and Rebecca Mae Vinson
P. O. Box 756
Vails Gate, N. Y. 12584

Joyce Etess
232 Windsor Highway - Unit 22
New Windsor, N. Y. 12553

Edna and Toni DiDonato
Blanche and Clancy Avenue
New Windsor, N. Y. 12553

Roy W. Coykendall, Douglas Kendall
Barbara A. Calcagni
25 Melrose Avenue
New Windsor, N. Y. 12553

Albert H. Netz
% Lillian Delpha
37 Cross Road
Cochecton, N. Y. 12726

Robert R. and Loretta Brown
3 Melrose Avenue
New Windsor, N. Y. 12553

Maddelena Marchetta
188 Walsh Avenue
New Windsor, N. Y. 12553

Rudolph and Ella Pelus
20 Cedar Avenue
New Windsor, N, Y. 12553

Frank and Helen Gerbes
24 Cedar Avenue
New Windsor, N. Y. 12553

Mary Osusky Kelley
17 Blanche Avenue
New Windsor, N. Y. 12553

Elizabeth Osusky
15 Blanche Avenue
New Windsor, N. Y. 12553

Thomas and Kathleen O'Brien
13 Blanche Avenue
New Windsor, N. Y. 12553

Dorothy J. Hughes
9 Blanche Avenue
New Windsor, N. Y. 12553

Michael P. and Joanne E. Antonucci
7 Blanche Avenue
New Windsor, N. Y. 12553

Joseph F. and Cecelia Caesar
25 Clancy Avenue
New Windsor, N. Y. 12553

The Disabled American Veterans
% The Thomas D. Peterkin Post Chapter 152
30 Lawrence Avenue
New Windsor, N. Y. 12553
Attn: Treasurer

Jeffrey A. and Jeanne S. Stent
15 Melrose Avenue
New Windsor, N. Y. 12553

Angela Szajko
24 Clancy Avenue
New Windsor, N. Y. 12553

John and Jayne M. Kelly X
20 Melrose Avenue
New Windsor, N. Y. 12553

Peter L. and Christine M. Gandolfini
16 Melrose Avenue Y
New Windsor, N. Y. 12553

Harold and Shirley Jones X
9 Cedar Avenue
New Windsor, N. Y. 12553

Calvary Cemetery
% Church of St. Patrick X
55 Grand Street
New Windsor, N. Y. 12550

Stephen E. and Kenneth L. Miron
% Federal Block Corp.
129 Walsh Avenue X
New Windsor, N. Y. 12553

P & T Realty of New Windsor, Inc.
144 John Street X
New Windsor, N. Y. 12553

Twin Bridge Group Inc.
% Roskoski & Otto
710 Broadway X
Newburgh, N. Y. 12550

RTF ZBA.
8/14/95

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, JoAnne Antonucci, of 7 Blanche Avenue,
support the Funeral Home Proposal.

JoAnne Antonucci
SIGNATURE

DATE: 8-7-95

RtF - 28A
8/14/95-

July 12, 1995

Dear Sir/Madam:


I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, R. J. PETRILLO, of 150 WALSH RD,
support the Funeral Home Proposal.


SIGNATURE

DATE: 7/13/95

RF- 2BA.
8/14/95

July 12, 1995

Dear Sir/Madam:


I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, LES DENISAR, of FEDERAL BLOCK COY;
support the Funeral Home Proposal.



SIGNATURE

DATE: 7/13/95

RF - 2BA.
8/14/95 R

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, Elizabeth Stone, of 122 John st.,
support the Funeral Home Proposal.

Elizabeth Stone
SIGNATURE

DATE: 7/13/95

Ref - 23A.
8/14/95

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, William Rahay, of 15 LAWRENCE AVE,
support the Funeral Home Proposal.

William Rahay
SIGNATURE

DATE: Aug 7, 1995

2BA,
R&F- 8/11/95

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, GERALDINE LEE, of 12 LAWRENCE AVENUE
support the Funeral Home Proposal.

Geraldine A. Lee
SIGNATURE

DATE: 8/7/95

Ref 2BA.
8/14/95.

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, Ripie Mehl, of 182 Walsh Rd.,
support the Funeral Home Proposal.

Ripie Mehl
SIGNATURE

DATE: 7/14/95

LoF 2BA
8/14/95

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, Cathleen Perren, of 27 High St,
support the Funeral Home Proposal.

Cathleen Perren

SIGNATURE

DATE: 7-13-95

RTF ZBA.
8/14/95.

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, William Ken, of 116 John St New,
support the Funeral Home Proposal.

William Ken
SIGNATURE

DATE: 7/13/95

R&F - ZBA -
8/14/95.

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, SAMUEL DePACE, of 112 John St,
support the Funeral Home Proposal.

Samuel DePace
SIGNATURE

DATE: 6/13/95

RF-2BA

8/14/95.

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, MR + MRS NICHOLAS J. Colicino, of 113 JOHN STREET,
support the Funeral Home Proposal.

Charles J. Colicino
SIGNATURE

DATE: 8/7/95

R&F. ZBA.
8/14/95.

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, Mary Ann Post, of 136 John St
New Windsor ny,
support the Funeral Home Proposal.

Mary Ann Post
SIGNATURE

DATE: 7/13/95

Ref- ZBA.
8/14/95

July 12, 1995

Dear Sir/Madam:

I am trying with all sincerity to renovate and establishing the vacant building at 161 Walsh Avenue, as a Funeral Home.

I am requesting your support for my endeavor.

Sincerely yours,

Linwood Rhodes Jr.

I, Bruno Marchetti, of 189 Walsh Rd.,
support the Funeral Home Proposal.

Bruno Marchetti
SIGNATURE

DATE: 7-13-95

Anthony J. Coppola, R.A.

Design, Architecture, and Planning

175 Liberty Street, Newburgh, NY 12550 • Tel: 914-561-3559 • Fax: 914-561-2051

Rec'd. ZBA - 8/14/95
PAB

August 8, 1995

Town of New Windsor - Town Board and Supervisor's Office
555 Union Ave.
New Windsor, N.Y. 12550
Attn.: Mr. George Meyers, Town Supervisor

Project: Funeral Home Conversion at 161 Walsh Rd., New Windsor, N.Y.

Dear Mr. Meyers,

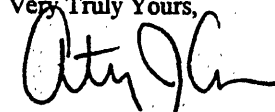
We are in the process of trying to obtain a variance to convert an existing one story block building at 161 Walsh Rd. into a funeral home. The applicant is Mr. Linwood Rhodes Jr. The existing site is in the R4 zoning district, which does not allow the funeral home as an approved use but it does allow buildings owned and operated by the Town of New Windsor.

We have been asked by the Zoning Board chairman, James Nugent, to somehow document to the zoning board that the Town is not interested in purchasing or developing this lot for its own use.

In my professional opinion it is obvious that given the existing size of the lot (75ft. x 181 ft.), it is difficult to envision any practical use which the Town could use this property for. We have also supplied the Zoning Board with other testimony relating to other currently allowed uses, and why our proposal seems to be the best and most appropriate use for this vacant building. We have attached a copy of our site plan for your review.

We would like to assume that if we do not hear from your office that the Town has no interest in this property. Please call my office if you have any further questions.

Very Truly Yours,



Anthony J. Coppola, RA

cc: Mr. Rhodes
Town of New Windsor, ZBA



COUNTY OF ORANGE

JOSEPH G. RAMPE
COUNTY EXECUTIVE

DEPARTMENT OF PLANNING

124 MAIN STREET
GOSHEN, NEW YORK 10924-2124
TEL: (914) 294-5151, EXT. 1770 FAX: (914) 294-3546

PETER GARRISON, COMMISSIONER

Rec'd. 28th 7/18/95
PAB
Re: Rhodes
Windsor

ORANGE COUNTY DEPARTMENT OF PLANNING 239 L, M OR N REPORT

This proposed action is being reviewed as an aid in coordinating such action between and among governmental agencies by bringing pertinent inter-community and countywide considerations to the attention of the municipal agency having jurisdiction.

Referred by:

OCDP Reference No.: NWT 7-95-M
County I.D. No.: 13-5-29

Town of New Windsor

Applicant:

Alex Santori - Robert Kohl

Proposed Action:

Area & Use Variance - Funeral Home - Insufficient Parking

State, County, Inter-Municipal Basis for Review:

Within 500' of -Site does not appear to be within 500' of a Federal, State or County Road.

Comments:

There are no significant inter-community or countywide considerations to bring to your attention.

Related Reviews and Permits:

County Action: Local Determination X

Disapproved

Approved

Approved subject to the following modifications and/or conditions:

Date:
7/11/95

[Signature]

Deputy Commissioner

Date 10/2/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Drive DR.
New Windsor, NY 12553

DATE			CLAIMED	ALLOWED
9/11/95	Zoning Board Meeting		75.00	
	Misc - 2			
	Savino - 4 - \$18.00			
	Hinkson - 9 40.50			
	Spies - 4 18.00			
	Llanusa - 3 13.50			
	Belle - 11 49.50			
	Rhodes - 13 58.50			
	Greer - 17 76.50			
	Perez - 2 9.00		292.50	
	65 pgs			
			367.50	

PUBLIC HEARINGS:

RHODES, LINWOOD

MR. NUGENT: Request for use variance for a funeral home in an R-4 zone and an area variance for 17 off-street parking spaces at 161 Walsh Road. Larry, I'd like to bring you up to speed.

MR. TORLEY: I read the minutes. I was wondering if the applicants had any discussion at the time, was really based on the presence or absence of sufficient dollars and cents proof and I was, if that is my, at least my interpretation of what the minutes seem to be saying, I want to know if the applicant had any further information that he wanted to give us?

MR. NUGENT: Anyone for Linwood Rhodes? No one is here right now. Can't answer your question. The thing is, Larry--oh, we started without you but that is okay.

(Whereupon, Mr. Linwood Rhodes entered the room.)

MR. NUGENT: The problem was is that he didn't have a full board, we gave him the option of postponing the vote which he took. The gentleman also added some letters and some pictures which he has right there.

MR. TORLEY: Letters I saw.

MR. NUGENT: But I want you to keep in mind that from the original presentation of the public hearing, no additional information can be added, he can add on to what he already gave and clarify it but he can't add to it without opening up to the public again, that means starting all over again from scratch and bringing it back.

MR. TORLEY: So, if we had asked him for a more detailed financial statement, he could not now give us that statement?

MR. KANE: Not without opening it up to a public hearing and letting the other side have their say too.

MR. NUGENT: This is where we had a problem.

MR. TORLEY: Should have adjourned the public hearing instead of closing it.

MR. NUGENT: So basically, if I understand the law and you can correct me if I am wrong.

MR. KRIEGER: I will.

MR. NUGENT: What we have to decide on is what Mr. Coppola made at the night of the public hearing.

MR. KRIEGER: Plus that additional amplified information that was supplied at the second hearing.

MR. TORLEY: Beyond what was read into the minutes, the statement by the licensed realtor, et cetera were there any numerical values on that?

MR. KANE: No.

MS. BARNHART: I have two letters from the realtor.

MR. NUGENT: Yes, I also received a letter from the supervisor of the Town of New Windsor because Mr. Coppola had contacted him also saying that they are not interested in purchasing or developing the lot at this time.

MR. TORLEY: I'm going to be forced to ask Andy, given the record as it now stands, before we make our vote on this, is that record, that in your legal experience means what you understand to be the criteria, minimum criteria for dollars and cents proof as defined by the state law requirements.

MR. KRIEGER: I think that if a variance were granted on this record, it could expect to fair poorly in an Article 78 challenge. I wouldn't say to the board which way how to vote which way to vote but I can tell you that it would provide, it may well be interpreted to be inadequate under an Article 78 challenge by a judge.

MR. TORLEY: And previous I believe I read in the minutes that the public hearing was in fact closed, not adjourned.

MR. NUGENT: It was.

MR. TORLEY: Now, if the applicant received an unfavorable vote, what are his requirements for coming back six months or he can reapply immediately with all the additional data?

MR. NUGENT: With new information, he can apply immediately.

MR. KRIEGER: Correct, if there's a so-called change of circumstances or new information then he can apply immediately.

MR. TORLEY: Clearly detailed financial statement would be new information.

MR. KRIEGER: I believe he had additional information with respect to the finances which is not now before the board that would be new information.

MR. KANE: I think that is pertinent because we need to present a dollars and cents value to make a decision that wasn't presented to us inasmuch as I personally think is a good project, that point needs to be covered and hasn't been.

MR. TORLEY: Are we making ourselves clear on this, I agree I like the project but we're required by law to have these dollars and cents proof before we can make an affirmative vote.

MR. RHODES: What are you talking about in terms of dollars and cents wise?

MR. KRIEGER: You can't have somebody come in and presume to make a conclusion for the board blanket statement well it can't be turned into a one-family house if somebody were to come in and say look, in order to do that, it would cost you X number of dollars to do the conversion, estimated and you could only

receive Y number of dollars selling a one-family house in a neighborhood of that state, then it would leave it up to the board to make a conclusion as to whether that is a reasonable return or not. But that would, that would put the facts before it. For somebody to come in and make a conclusion and simply make a statement is not suitable period, that is a not dollars and cents evidence and that conclusion is for the board, it's not for the person.

MR. RHODES: That is writing the statement which agree with that.

MR. KRIEGER: They offer facts, opinions, conclusions are for the board, not for a witness or an applicant.

MR. KANE: We have to, by state law, follow those laws very stringently.

MR. RHODES: All respects to the board, the board has asked me whatever documents the board asked me to bring or secure, I have put 100 percent effort in securing those documents, the way the board has asked me and each one of these hearings that I have been to, no matter what the board has requested of me, for instance, additional information that you considered additional, I was requested to bring information in, that is why I brought this information in.

MR. LANGANKE: This being the letter.

MR. RHODES: Now you're telling me you need more information. I'm saying the board, if that be the case, whatever you need, please tell me so I can do it. Every time I come back to this board, I'm being requested to bring something else.

MR. NUGENT: That is not the--

MR. RHODES: You're saying that is not the case, all due respect, but I see that that is the case here, that is what I am running into. So at this point there's new, you need more information, what do you need so you can tell me and I can see if I can secure that.

MR. KANE: If I can correct you, the last two delays were due to us not having the full board to make our decision. If our decision in the record would show that my particular vote would have gone against it at that time, at the original hearing, because the dollars and cents value wasn't put up front at that point. We made the two delays to give Larry the opportunity to be here and for you to have the opportunity to have a full board present and that is the only reason we delayed it.

MR. TORLEY: By the rules, because the public hearing has been closed, no new information can be introduced at this time.

MR. NUGENT: That is correct.

MR. LANGANKE: Unless he chooses to reopen it by presenting new evidence.

MR. TORLEY: Can he request that the public hearing be reopened?

MR. KANE: Or can Larry request that for additional information?

MR. NUGENT: Not to my knowledge he can't, he has to go through the process over again.

MR. KRIEGER: Once it's been closed, I don't know that.

MR. KANE: But that doesn't stop the applicant from reapplying with more information.

MR. KRIEGER: It doesn't stop the reapplication, it does stop a--

MR. KANE: Reconsideration.

MR. KRIEGER: Simply reopening once it's been closed.

MR. RHODES: You say you'd need this building, I guess you need this building and you need someone to go through this building and find out in dollars and cents what it would cost to convert it to a one family or two

family, is that, is that what I am understanding that is all I'm trying to understand?

MR. KANE: Prove in dollars and cents that you cannot get a reasonable return on that property for the existing uses going down the list of uses that are there for the existing uses and that is what the state requires us.

MR. LANGANKE: What are the uses?

MR. KANE: Top of my head, single family home, there was--

MR. LANGANKE: House of worship.

MR. KANE: House of worship.

MR. BABCOCK: Town owned buildings and he's got the book.

MR. LANGANKE: So the town has already taken care of--now the house of worship, how would you get that?

MR. KANE: There's obviously I think that would be--

MR. LANGANKE: That is obvious that he doesn't, you know, just will not do for a house of worship.

MR. KANE: I think he needs to confront the single family home.

MR. KRIEGER: With respect to the places of worship, it's simply establishing that for places of worship you have to have three acres which is right in the table here and you need so much size in a building, it has to accommodate so many people in order to be workable, and this and then what has to be done, what would have to be done with this building to cause it to be able to do that. It's the same sort of analysis that you use when doing a one-family house.

MR. TORLEY: But let me get this straight, I would like the ability for the applicant to put this additional dollars and cents, the state law is very clear, we're

stuck.

MR. RHODES: I understand that, alls I'm asking--

MR. TORLEY: If that takes reopening the public hearing since I was not at the last meeting, I think we can request, can we not by unanimous vote, we reverse that and reopen the public hearing?

MR. NUGENT: Not without having him put the ad in the newspaper and all that stuff over again because we have got to have the public hearing.

MR. BABCOCK: You have to re-advertise because if you open the public hearing tonight, some of the public are here.

MR. TORLEY: If you re-advertised and did that, he would not have to go through the reapplication fees, would he?

MR. NUGENT: I don't know about that.

MR. TORLEY: I'm trying to save the applicant money. I think it's a good idea but we're constrained by state law.

MR. NUGENT: I personally feel my experience on the board is that he'd have to start all over again, that is my personal experience tells me that, I'm not absolutely positive.

MR. KRIEGER: That has been certainly unanimously in both my experience and knowledge of this area that has been universally the custom. As a technical matter, does he have to do it? All I'll say is if he didn't, it would leave a rather large question if such a decision were to be challenged for a court to decide.

MR. TORLEY: State law does not require us to have a Preliminary Hearing, does it?

MR. KRIEGER: No, it doesn't.

MR. TORLEY: Requires public hearing.

MR. KRIEGER: That is true.

MR. TORLEY: Applicant has had a public hearing, it has been closed, he wishes to provide more data and wishes to reopen the public hearing. If he was to go meet our criteria for notification of the public, can't we just say okay, you have another public hearing.

MR. KANE: You're dealing with technicalities and if we went ahead and did something like that and somebody wanted to challenge it, you're leaving a door open for somebody to challenge it.

MR. KRIEGER: That is true, you'd leave the door open. I'm not willing to say one way or another that it is definitely okay or definitely prohibited but it would be a question.

MR. LANGANKE: That is what we're saying is have a vote, why are we discussing this need for dollars and cents, if he can't present it, why are we even discussing it?

MR. KANE: Cause Larry's requesting information, he wasn't here and wants to know why.

MR. LANGANKE: Isn't in the letters, a realtor's opinion that it can't be used as a single family house, hasn't professional opinion been rendered in the literature that we have? The only thing we're lacking is a contractor going there, making an estimate to make a single family, that is the only thing we're lacking really. Is this right or wrong?

MR. RHODES: And I would have done this if I would have known, that is what the board requested.

MR. NUGENT: That is not all in my opinion.

MR. KRIEGER: The conclusion of whether or not a reasonable return can be realized on the property is for the board, if somebody comes in and renders an opinion without supporting documentation and simply says in my opinion then they presume to take onto

themselves a process, a decision which is up to the board to make.

MR. LANGANKE: But we have all gone to that site and made our own opinions also.

MR. KRIEGER: All I can tell you is that the decisions that the matters like this that have gone to become important decisions the court's have universally required and it is their phrase and appears over and over in the decisions, dollars and cents proof, and how shall I put this, I think the record as it exists on that particular account is subject to serious and meaningful challenge.

MR. TORLEY: Now, were the applicant to start over.

MR. NUGENT: Forget that for now. We need a vote.

MR. BABCOCK: You don't have to start over if he gets a yes vote.

MR. TORLEY: I'll call for the vote. I thank you for the courtesy of waiting.

MR. NUGENT: We need to go through a motion, positive motion.

MR. TORLEY: I would move that we grant requested use variance for Mr. Rhodes in the funeral home in an R-4 zone.

MR. LANGANKE: I second it.

ROLL CALL

MR. KANE	NO
MR. LANGANKE	AYE
MR. TORLEY	NO
MR. NUGENT	NO
MR. REIS	ABSTAIN

MR. TORLEY: Now, may I ask what's the, when can we schedule him to provide the information but he does have to start over from scratch?

MR. NUGENT: As far as I know.

MR. KRIEGER: I know of no different procedure.

MR. NUGENT: We have had this happen before.

MR. LANGANKE: I wish there were a process for opening up the public hearing without starting from scratch.

MR. KANE: It's not there, I wish it was too but I think your setting yourself up for a challenge and you're leaving that door wide open for a challenge and that would prove a lot more expensive than going this route and reapplying and covering all the bases. As we know, a use variance is very, very difficult to prove and we need to make sure that all bases are covered with that. I personally like the project and I want to make sure it can withstand any challenge if all the information is provided.

MR. TORLEY: So we're clear what we're requesting is actual dollars and cents?

MR. RHODES: That is all your requesting, right?

MR. KANE: You would need to present your whole case again with the dollars and cents proof.

MR. RHODES: You're saying that everything was presented but the dollars and cents I need that?

MR. KANE: That is what I am saying.

MR. TORLEY: Let me ask the attorney.

MR. RHODES: Is the board saying this, this is what the problem that is what you're saying?

MS. BARNHART: That is what the state is saying, has nothing to do with the board.

MR. RHODES: What I mean, well the state requirement.

MR. TORLEY: We took an oath to do the state law, Andy,

as their attorney, so we can make sure we have the precise requirements laid out, can you tell him exactly what it would seem to imply he needs, I want to make it very clear.

MR. KRIEGER: Well, I think the applicant already has and if he doesn't, I have additional copies, he already has the criteria set forth by the state law with respect to the, go backwards, with respect to the self-created, the evidence that he presented would be legally sufficient, if the board were to find it with respect to the essential character of the neighborhood, it would be necessary for the board to put in the records some basis on which the conclusion was made, since it's been disputed. With respect to the uniqueness, the evidence would have been sufficient to as existed allow the board to decide the question so all that remains the same. The problem is the lack of reasonable return, that is the area in which evidence is deficient and it is necessary with respect to each use not including the Town of New Windsor use that was adequately taken care of, I believe that letter also takes care of number three, public parks and playgrounds that with respect to the other items including agricultural, commercial, forestry, outdoor recreation, places of worship, I have already talked about, public schools that can be taken care of in the same fashion that the Town of New Windsor question was taken care of, except obviously it would be the school district instead of the town, with respect to the one family three uses for one family, in order to place the question before the board it is necessary for the applicant to show approximately not exactly but approximately what it would cost to convert the premises, what it would cost to tear it down, make it vacant and reconstruct a one family, a conforming one-family house or convert it into a one-family house and again, detailed plans such as you would want if you were doing the construction are not necessary but some dollars and cents proof of what it would cost at least in terms of ballpark or estimate coming from a competent source to render that dollars and cents opinion. That is the opinion you're allowed to consider. Somebody says in my opinion it would cost X, I'm experienced in doing this and in my, this is what I

do for a living, and in my opinion, it would cost between A and B to do it. That is an opinion which you can consider and that is an opinion that doesn't contain a conclusion. It is simply an opinion as to the facts and you can consider that or not consider it for what it is worth. But that is the kind of evidence that is necessary to show what it would cost and then the board can make a conclusion as to whether or not the applicant cannot realize a reasonable return, don't know if that answers the question but--

MR. TORLEY: I would refer to the applicant, do you think you understand what we're talking about?

MR. RHODES: I have an idea of what you're talking about, basically he's saying that if the building was torn down, what it would cost to construct a two-family house there on that site?

MR. KRIEGER: If a person were going to utilize it for a one family detached dwelling as I understand the evidence, one of two things would have to happen, either have to convert the existing structure or tear it down and if somebody came in and said in order to convert this to one family structure, it would cost between A and B, you don't happen to have an exact estimate right down to the penny, but it would cost approximately this, and then if you had somebody to say well a one-family house looking like that could realize so many dollars on sale in that area, then you have opinions as to value and then the board can take those two and compare them. As I say, you have to have somebody talk about conversion and the other, somebody has to come in and say in order to tear it down and construct this is what it would cost.

MR. TORLEY: And this information will give us a legal defense?

MR. KRIEGER: Then you'd have a basis which you, the board, could decide whether that is a reasonable return or not or even though you may not find under the facts as they are given that is a terribly difficult conclusion to arrive at but you must have the facts before you, otherwise it looks like you're just acting

September 11, 1995

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arbitrarily on a whim.

MR. NUGENT: Okay.

MR. RHODES: Okay, thank you.

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APPLICATION FOR VARIANCE

90-36

Date: 6/30/95

I. ✓ Applicant Information:

- (a) Alex Sando
(Name, address and phone of Applicant) (Owner)
(b) Linwood Rhodes, 37 South St. Highland Falls
(Name, address and phone of purchaser or lessee)
(c) _____
(Name, address and phone of attorney)
(d) _____
(Name, address and phone of contractor/engineer/architect)

II. Application type:

- (☒) Use Variance (☐) Sign Variance
(☒) Area Variance (☐) Interpretation

III. ✓ Property Information:

- (a) R4 161 WALSH RD. 13/5/29 13,350 SF
(Zone) (Address) (S B L) (Lot size)
(b) What other zones lie within 500 ft.? PI
(c) Is a pending sale or lease subject to ZBA approval of this application? YES
(d) When was property purchased by present owner? UNKNOWN
(e) Has property been subdivided previously? No
(f) Has property been subject of variance previously? No
If so, when? _____
(g) Has an Order to Remedy Violation been issued against the property by the Building/Zoning Inspector? No
(h) Is there any outside storage at the property now or is any proposed? Describe in detail: No

✓ IV. Use Variance.

- (a) Use Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____, to allow: (Describe proposal) PROPOSED FUNERAL HOME NOT

ALLOWED IN R4 ZONE.

SEE ATTACHED APPLICANT'S STATEMENT.

(b) ✓ The legal standard for a "use" variance is unnecessary hardship. Describe why you feel unnecessary hardship will result unless the use variance is granted. Also set forth any efforts you have made to alleviate the hardship other than this application.

WE BELIEVE THAT FOR THE USE AS DESCRIBED THERE ARE NO OTHER VIABLE ALTERNATIVES FOR THE USE OF THIS BUILDING. WE WILL ALSO PROVIDE AN APPRAISER'S STATEMENT ON THIS.

(c) Applicant must fill out and file a Short Environmental Assessment Form (SEQR) with this application.

(d) The property in question is located in or within 500 ft. of a County Agricultural District: Yes _____ No X.

If the answer is Yes, an agricultural data statement must be submitted along with the application as well as the names of all property owners within the Agricultural District referred to. You may request this list from the Assessor's Office.

✓ V. Area variance:

(a) Area variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Min. Lot Area _____	_____	_____
Min. Lot Width _____	_____	_____
Reqd. Front Yd. _____	_____	_____
Reqd. Side Yd. _____	_____	_____
Reqd. Rear Yd. _____	_____	_____
Reqd. Street Frontage* _____	_____	_____
Max. Bldg. Hgt. _____	_____	_____
Min. Floor Area* _____	_____	_____
Dev. Coverage* _____ %	_____ %	_____ %
Floor Area Ratio** _____	_____	_____
Parking Area <u>30</u>	<u>13</u>	<u>17</u>

* Residential Districts only

** No-residential districts only

✓ (b) In making its determination, the ZBA shall take into consideration, among other aspects, the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. Also, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; (2) whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue other than an area variance; (3)

whether the requested area variance is substantial; (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (5) whether the alleged difficulty was self-created. Describe why you believe the ZBA should grant your application for an area variance:

WE BELIEVE THAT FOR THIS FUNERAL HOME OPERATION
13 PARKING SPACES WILL BE MORE THAN SUFFICIENT. SEE
ATTACHED STATEMENT.

(You may attach additional paperwork if more space is needed)

VI. Sign Variance: *N/A*

(a) Variance requested from New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

	<u>Requirements</u>	<u>Proposed or Available</u>	<u>Variance Request</u>
Sign 1	_____	_____	_____
Sign 2	_____	_____	_____
Sign 3	_____	_____	_____
Sign 4	_____	_____	_____
	_____	_____	_____

(b) Describe in detail the sign(s) for which you seek a variance, and set forth your reasons for requiring extra or over size signs.

(c) What is total area in square feet of all signs on premises including signs on windows, face of building, and free-standing signs?

VII. Interpretation: *N/A*

(a) Interpretation requested of New Windsor Zoning Local Law, Section _____, Table of _____ Regs., Col. _____.

(b) Describe in detail the proposal before the Board:

VIII. Additional comments:

(a) Describe any conditions or safeguards you offer to ensure that the quality of the zone and neighboring zones is maintained or

(b) Variance: Granted (____) Denied (____)

(c) Restrictions or conditions: _____

_____.

NOTE: A FORMAL DECISION WILL FOLLOW UPON RECEIPT OF THE PUBLIC HEARING MINUTES WHICH WILL BE ADOPTED BY RESOLUTION OF ZONING BOARD OF APPEALS AT A LATER DATE.

(ZBA DISK#7-080991.AP)

PROJECT I.D. NUMBER

617.21

SEQR

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I—PROJECT INFORMATION (To be completed by Applicant or Project sponsor)

1. APPLICANT /SPONSOR LINWOOD RHODES	2. PROJECT NAME FUNERAL HOME AT 161 WALSH RD.
3. PROJECT LOCATION: Municipality ORANGE COUNTY Town OF NEW WINDSOR County	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) 161 WALSH RD.	
5. IS PROPOSED ACTION: <input type="checkbox"/> New <input type="checkbox"/> Expansion <input checked="" type="checkbox"/> Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: FUNERAL HOME CONVERSION OF EXISTING BUILDING.	
7. AMOUNT OF LAND AFFECTED: Initially 13,350 SF acres Ultimately 13,350 SF acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If No, describe briefly USE AND PARKING REQUIRE REQUIRED	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Agriculture <input type="checkbox"/> Park/Forest/Open space <input type="checkbox"/> Other Describe:	
10. DOES ACTION INVOLVE A PERMIT APPROVAL OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency(s) and permit/approvals	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, list agency name and permit/approval	
12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION? <input type="checkbox"/> Yes <input type="checkbox"/> No	
I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE	
Applicant/sponsor name: Linwood Rhodes	Date: 6/8/95
Signature: _____	

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment

OVER

PART II—ENVIRONMENTAL ASSESSMENT (To be completed by Agency)

A. DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.12? If yes, coordinate the review process and use the FULL EAF. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
C. COULD ACTION RESULT IN ANY ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible) C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly: <p style="text-align: center;">No</p> C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly: <p style="text-align: center;">No</p> C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly: <p style="text-align: center;">No</p> C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly: <p style="text-align: center;">No</p> C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly: <p style="text-align: center;">No</p> C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly: <p style="text-align: center;">No</p> C7. Other impacts (including changes in use of either quantity or type of energy)? Explain briefly: <p style="text-align: center;">No</p>	
D. IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If Yes, explain briefly	

PART III—DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed.

- ☐ Check this box if you have identified one or more potentially large or significant adverse impacts which MAY occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.
- ☐ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse environmental impacts AND provide on attachments as necessary, the reasons supporting this determination:

Name of Lead Agency

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (if different from responsible officer)

Date

37 South Street
Highland Falls, New York
10928

June 23, 1995

Town of New Windsor Zoning Board
555 Union Avenue
New Windsor, New York 12553

Dear Board Members:

I have been a resident of Orange County, for the past twenty three years. I am a former Chief of Police of the Village of Highland Falls, and Retired Detective of the City of Newburgh Police Department. I have been in the funeral business for the past seven years. I am presently working out of a funeral home located in the City of Newburgh. The majority of my services and calling hours are held in local churches.

The New York State Funeral Service Board requires the firm to have 300 square feet for the Selection Room or Chapel area. The board also require an office and 120 square foot for a Preparation Room. The building at 161 Walsh Avenue, more than meets the standard for a funeral firm. However, I realize at this point, I can only provide fourteen (14) off-street parking spaces at this location. Again, the procedural of calling hours and services at churches is traditional for the clients in which I serve.

If I am permitted to operate from 161 Walsh Avenue, I will remodel the building, both interior and exterior. I will also landscape the area and do nothing that would be offensive to my neighbors. I believe a funeral home would improve the neighborhood, enhance the now vacant building and parking lot, which is now covered with over grown bushes. The parking area will be paved and area lights installed.

I am seeking permission to improve my business and be an asset to the Town of New Windsor.

Thank you for your time and consideration.

Respectfully submitted,

Linwood Rhodes, Jr.

APPLICANT'S PROXY STATEMENT
(for professional representation)

for submittal to the

TOWN OF NEW WINDSOR PLANNING BOARD

Linwood Rhodes, Jr. _____ deposes and says that he
(Applicant) _____
resides at _____ 37 South St., Highland Falls, N.Y. 10928. _____
(Applicant's Address)

in the County of _____ Orange _____

and State of _____ New York _____

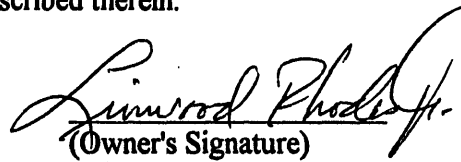
and that he is the applicant for the _____
Funeral Home Conversion at 161 Walsh Rd _____
(Project Name and Description)

which is the premises described in the foregoing application and

that he has authorized _____ Anthony J. Coppola, Architect _____
(Professional Representative)

to make the foregoing application as described therein.

Date: June 8, 1995


(Owner's Signature)


(Witness' Signature)

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE
OF
THE COMPANY WHO is BEING AUTHORIZED TO REPRESENT THE
APPLICANT
AND/OR OWNER AT THE MEETINGS.

APPLICANT'S PROXY STATEMENT
(for professional representation)

for submittal to the
TOWN OF NEW WINDSOR PLANNING BOARD

ALEX SANTORO, deposes and says that he
(Applicant)

resides at 24 FAIRVIEW AVE, TUCKAHOE
(Applicant's Address)

in the County of WESTCHESTER

and State of NEW YORK 10707

and that he is the applicant for the

FUNERAL HOME CONVERSION AT 161 WALSH RD.
(Project Name and Description)

which is the premises described in the foregoing application and

that he has authorized LINWOOD RHODES
(Professional Representative)

to make the foregoing application as described therein.

Date: 6/9/1995

Alex Santoro
(Owner's Signature)

Sumner Williams
(Witness' Signature)

THIS FORM CANNOT BE WITNESSED BY THE PERSON OR REPRESENTATIVE OF
THE COMPANY WHO IS BEING AUTHORIZED TO REPRESENT THE APPLICANT
AND/OR OWNER AT THE MEETINGS.

7/10/95 Public Hearing - Rhodes, Linwood #95-36

Name:

Address:

John BARBOCK Opposed 12 BLANCHES AVE

Albert J. Porey 178 WALSH AVE

~~John Barbock~~ 16 Melrose Avenue Peter GANDOLFINI

Dziedra S, Opposed - 61 Blanche Ave, N.W.

Loretta Brown - 3 Melrose Ave.

~~Joseph Vesely~~ 172 Walsh Rd

Laurie Vesely object 172 Walsh Rd

Frank Zamenick Sp Opposed 160 Walsh Rd N.W.

Shirley Zamenick opposed 160 Walsh Rd N.W.

Mary Connolly opposed 162 Walsh Rd N.W.

Robert J Zamenick 160 WALSH Rd N.W.

Thomas Russell OK 165 WALSH Rd N.W.

Lori Vesely 172 WALSH Rd N.W.

SINCE 1938

John J. Lease Realtors[®]

313 Broadway, Newburgh, N.Y. 12550 914-565-2800

Rof 8/14/95 - ZBA.

JOHN J. LEASE, SR.
JOHN J. LEASE, JR.
RICHARD F. LEASE
JOHN LEASE III

FAX 914-565-4133

August 14, 1995

**Mr. James Nugent
Zoning Board Chairman
Town of New Windsor
555 Union Avenue
New Windsor, NY 12553**

Dear Mr. Nugent:

John J. Lease Realtors has been marketing 161 Walsh Road for sale for Crystal Cleaners since May 1992. The property has been on the market with other real estate brokers since 1990.

This building is 900 sq. ft. of office and 800 sq. ft. of warehouse with slab on grade construction. In 1988 the present owners purchased the property from a body shop/garage user who also maintained a machine shop at this location.

Market activity has been sparse on this property with approximately 10-15 customers since listing. The customers for this property have been commercial and retail users. Within the existing zoning it's use as a single family house would render the property unmarketable. Alternate uses such as a place of worship are not attractive to users because of the parking demands.

13-5-29.

Page 2
August 14, 1995
Mr. James Nugent

It is my opinion as real estate sales person who has handled this parcel since 1992, that the highest and best use would be for a clean and quiet commercial-retail user. This would be preferable to a body shop which was it's former use. A residence within this structure would be a strained attempt to shoe horn a use into the existing structure, making for an ugly uncomfortable fit.

Sincerely,

JOHN J. LEASE REALTORS

A handwritten signature in cursive script that reads "Jeffrey Lease". The signature is written in dark ink and is positioned above the printed name.

Jeffrey Lease

July 6, 1995

New Windsor Town Planning Board
555 Union Avenue
New Windsor, New York 12553

Dear Planning Board:

As per the request of Anthony J. Coppola, I have inspected the property located at 161 Walsh Road, New Windsor, New York. It is known on the Orange County Tax Maps as Section 13, Block 5, Lot 29.

The property had a pre-existing commercial use in the R-4 Zone. It is a 1,800 square foot block building that has a highest and best use as commercial. Unfortunately, none of the permitted uses in the R-4 Zone would seem obtainable. The building is not suited for any of the permitted uses. Therefore, it is my professional opinion that a variance for some type of commercial use should be granted because of this hardship.

Sincerely,

Ray Lease

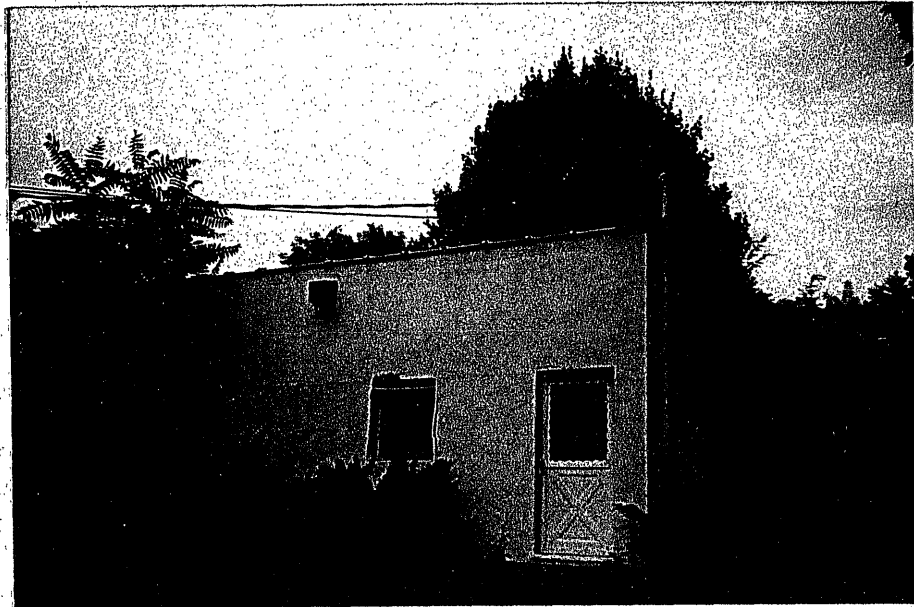
RAY LEASE - Appraiser

N.Y. CERTIFIED GEN. R.E. APPRAISER

LIC. # 0116

#46000001278

RAY J. LEASE
Real Estate Appraiser



RAY J. LEASE
Real Estate Appraiser

Date 9/6/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Francis Both 147 Sycamore Dr DR.
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
8/14/95	Zoning Board Meeting		75 00	
	Misc. 2			
	Correr - 8			
	Perez - 4			
	McB - 7			
	Rhodes - 8	36.00.		
	H.W.G. - 5			
	<u>34</u>		153 00	
			228 00	

RHODES, LINWOOD

MR. NUGENT: Decision - Request for use variance for funeral home in an R-4 zone and an area variance for 17 off-street parking spaces at 161 Walsh Road.

Mr. Linwood Rhodes appeared before the board for this proposal.

MR. KRIEGER: Public hearing is closed.

MR. RHODES: What I'd like to submit is a letter from the architect that he sent to the town board.

MR. NUGENT: I have a copy.

MR. RHODES: I have one from the realtor and 13 additional letters and also I'd like the board to take a look at the obituary in the Middletown Record on July 18, Tuesday, what I am basically trying to get the board to see that Coloni Funeral Home handled the same type of arrangements which I handled, everything was done in the church is exactly what I explained, that tradition for black people their services is done in the church, not the funeral home and show that it just happened on July 18, they did handle a service in Newburgh and the service was handled on South Street and the internment was at Woodlawn, so if they could have handled it in the church, they would have. I also I took a photograph of the area up there and you can take a look at it and it shows for instance this property here directly across from the funeral home this is a property here, their driveway is here and directly adjacent to the driveway is this building which this is the type area, the entire street is showing that this building here which is directly across from the funeral home, this is their driveway that comes out, this building here would be adjacent to their driveway which is this is what's on the entire street here and this dilapidated building which is on the corner there.

MR. NUGENT: Know it well.

MR. RHODES: I took a look at that area to see because

it was in question that my building would lower the value of the homes in that area. So I was of the opinion that everything in that area was well kept and all the buildings in that area as you can see from the photographs is in bad condition all the way in the back. And as you can see this building that I am proposing to put the funeral home before you do anything to it, it's in much better shape than the buildings that is around that area now. So also I went around to the community, I canvassed the community back and forth and a lot of the residents assured me that I said well, how many letters did you send out, I said 78 letters, and I said we had approximately 8 people responded. Well, the reason we didn't respond was because we were not against the project. We think the project should go. So I asked some people to sign letters, they signed letters, some people said I don't think I should sign. Why should I have to sign because if I was against it, I would be there. Talked to the fire department also, as long as you don't use their parking spaces, they are not concerned what you're going to put down the street. I talked to all the businesses in that area. There's a lot of businesses in that area. I did research on the building itself and I found out it was a body and fender shop, it was a machine shop, it was a carpentry shop, the research I did on the building and that building is a commercial building, they have been paying commercial taxes on it up till today. So that's about it. I have done just about everything that the board asked me to do for the building. I'm exhausted at this point. I don't know where to go.

MR. NUGENT: Also, I'd like to read into the minutes a letter from John Lease Realtors. Says we have been marketing 161 Walsh Road for sale for Crystal Cleaners since May of '92, property has been on the market with other real estate brokers since 1990. This building is 900 square feet of office and 800 square feet of warehouse with slab on grade construction. In 1988, the present owners purchased the property from a body shop garage user who also maintained a machine shop at this location. Market activity has been as far as on this property approximately 10 to 15 customers since listing. Customers have been commercial and retail

users within the existing zoning. It's use as a single family use would render the property unmarketable. Alternate uses, such as a place of worship, are not attractive to users because of the parking demands. It is my opinion as a real estate salesperson who's handled this property since 1992 that the highest and best use for this would be for a clean and quiet commercial retail user. This would be preferable to a body shop which was its former use. A residence within the structure would be a strained attempt to shoehorn a use into an existing structure making for an ugly uncomfortable fit.

Also, I'd like to read, I'm not going to read the whole thing into the file, a letter to Mr. Meyers from Anthony Coppola, who is the architect for the site, asking if the town was interested in that site cause that is one of the criteria you have to meet and I don't know what the response was because I haven't gotten a response.

MR. RHODES: We haven't got a response from the town. He said he wasn't interested but we haven't gotten anything in writing. That is what we said we needed and he was questioning why I was even contacting him.

MS. BARNHART: I spoke with him today about that.

MR. NUGENT: I also have 13 letters that Mr. Rhodes has given us signed by homeowners in that area which I want to have into the record. It's a form letter and the form letter says I'm trying with all sincerity to renovate and establish a vacant building at 161 Walsh Avenue as a funeral home. I'm requesting your support for my endeavor. That is the total letter. And it's signed by Joann Antonucci, 7 Blanche Avenue.

MR. RHODES: You have to make a note, it says that that particular building could be used for a place of worship and I'm thinking if it can be used for a place of worship, why can't they have a funeral service. This funeral service is a worship service, only difference is you just have a remains there. But if you have a place of worship, you would have, that building would be used at least twice a week and every Sunday you would have a group of people in the building

twice a week and every Sunday. But if we have a service in that building, like I said, it could be three months, it could be four months before we even have anything in that building as far as service-wise but we'll be working out of that building. Right now, until I get the building renovated, I can work out of the building just simply go in there, get what equipment you need and going out doing the service that is what I have been doing and my next door neighbors don't even know I'm in and out of there, that is basically what I have been doing and it's basically that it's going to be renovated, the only difference is it's going to be a nice looking building. It has to be for the state in order to get a state registration, that is all.

MR. NUGENT: Also, I have a letter from the Orange County Department of Planning and there are no significant intercommunity or county-wide considerations to bring to your attention so it's returned for local determination.

MR. RHODES: I talked to the next door neighbors, they didn't want to write a letter, they were here, they are away on vacation. Mr. Russell and Mr. Babcock live next door, he's away, if he wasn't away, he would be here today so there's no problem with him, he's for it.

MR. JOHN BABCOCK: If Mr. Rhodes is going to submit additional information, we should have the opportunity, the neighbors that were here at the last meeting didn't come this evening for the mere fact that the only thing this board was waiting for is an answer from the Orange County Planning Department. The letters are before you made your vote. Now, Mr. Rhodes is submitting all kinds of information here, I think we should be given the same opportunity. I don't think that that board, I think it's a little unusual for this board to entertain accepting anymore information when the public hearing was closed. All I ask is to have our day in court.

MR. KRIEGER: It is customary in holding public hearings for the Zoning Board of Appeals that after the public portion of the hearing is closed, the applicant is asked if he has anything else to add or to say. The

only difference here is that this is occurring in a subsequent meeting instead of occurring as it more usually does at the same meeting but it's the same process. If the applicant were to change the application in any way or to ask for something different than the request that he has made, requests that he has made, then the Zoning Board of Appeals could not act on that without having another public hearing because the request would have changed. As long as the requests are the same he's given an opportunity to say if he has anything to add and he's added such things as he sees fit. If the application had changed in any way then it would be necessary to have another public hearing. I assume from the stuff I have seen that the application has not changed so far in the variances and the variances requested have not changed in any way. Had they done so, it would be a different application.

MR. NUGENT: The only change I'm just thinking about what you're saying that I can see was the letter from the town that was not introduced at the original meeting and that to me is additional information.

MR. KRIEGER: It certainly is not a change in application and as a matter of fact, you don't see the weight of the evidence is for the board to determine. He submitted a letter written to the town. There is no letter here from the town. He submitted a letter to the town and is urging the board that they accept the fact that he has gotten a verbal response which is, which the board may or may not do. But the criteria does not, is not new, but is it in any way different from the evidence that he submitted previously? If it isn't in any way, if it is in any way different, then it would be a newer application. To determine whether this is different or not, it's something that I feel it's up to the board to determine whether it's different. Is it different or is it more of the same is what it amounts to. The letter from Lease has the board had that in front of it before?

MR. NUGENT: No.

MR. KRIEGER: There was, as I recall however there was

a letter from one of the Leases, I think Ray Lease.

MS. BARNHART: Yes, there was.

MR. KRIEGER: So this is additional to it but as I remember Ray Lease's letter and looking at this one, it doesn't say anything different than the prior one.

MR. RHODES: These were additional things we were requested to go out and take care of which we did and brought the response back to the board.

MR. NUGENT: Basically, it's more detailed.

MR. KRIEGER: More of the same is the way I see it.

MR. NUGENT: Any other questions by the board?

MR. LANGANKE: I think we really discussed this the last time that Mr. Rhodes was here, we had a long thorough discussion and I don't have any questions.

MR. KANE: I have none.

MR. REIS: No.

MR. KRIEGER: Mike, doesn't matter whether you do or not.

MR. REIS: I had abstained, that is correct.

MR. KRIEGER: You have recused yourself.

MR. NUGENT: Mr. Rhodes, that brings up a very interesting concept. We have a member short tonight, he's on vacation. And with one abstention you're going to end up with three votes, one no it's done. Do you want to take that shot or do you want to wait for him because we can table it until we get a full board?

MR. RHODES: Well, I'd rather table it until we get a full board. This way, if we table it until we get a full board, I can still present the additional information to the new member.

MR. KRIEGER: The state law says is in order to grant a variance there must be three positive votes regardless of how many members are here, there must be three positive votes, so it isn't the majority that is here, it's the majority of the board, which is three.

MR. NUGENT: He asked to table it.

MR. KRIEGER: Well then you need a motion.

MR. KRIEGER: It's a request but the decision has to be made by the board.

MR. KANE: I have no problem tabling it, I have a gut feeling about adding, I'd like Larry to see the pictures and the letters that came in so that he can update himself on this information.

MR. NUGENT: He will be apprised of the information that I have.

MR. KANE: But I don't think that we should allow anymore information to be presented after this point. I think it should come down the Larry taking a look at what we have and make his decision and just holding a vote in all fairness since we're not opening it up to the public, we go with the information that we have right here, let Larry see what we have, let him make his judgment and go with it there so it will be just a vote after Larry looks at the information rather than anymore discussion.

MR. KRIEGER: We run into the difficulty that I mentioned is it different or simply more of the same. If you reach more of the same at this point that is fine but every time that something is submitted you have to address that question.

MR. KANE: Okay.

MR. KRIEGER: Once it's different, the whole thing dies.

MR. KANE: Then at this point we would, if we wanted to, we can open it up to the public.

August 14, 1995

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MR. KRIEGER: No, then he has to make a new application. The application is dead.

MR. KANE: So it will be basically Larry going over the information and then if he has any questions of Mr. Rhodes that same opportunity we have to ask Mr. Rhodes a question, he can about what's here, right?

MR. NUGENT: Correct.

MR. KRIEGER: We have 13 letters, form letters dated July 12, 1995 signed by area property owners who support this application.

MR. KANE: I move that we table this motion until we have a full board since we have one member abstaining at this point to give the opportunity for a vote.

MR. LANGANKE: Second it.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. REIS	ABSTAIN
MR. NUGENT	AYE

Date 3/3/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Francis Roth - 147 Syracuse St
New Windsor NY 12553 DR.

DATE		CLAIMED	ALLOWED
7/12/45	Zoning Board Mtg	75 00	
	Misc - 2		
	Olsen - 3		
	Jaroscak - 10		
	Rhodes - 25		
	<u>40 pp</u>	<u>180 00</u>	
		255 00	

RHODES, LINWOOD

MR. NUGENT: Request for use variance for funeral home in an R-4 zone and an area variance for 17 off-street parking spaces at 161 Walsh Road.

Mr. Anthony Coppola and Mr. Linwood Rhodes appeared before the board for this proposal.

MR. COPPOLA: First thing I'd like to do is just go through some of the basics, submit some information to the board. My name is Anthony Coppola, I'm the architect and we have done a schematic site plan already. I'll put this here in case anybody wants to look at it.

MS. BARHNART: There is an affidavit of service indicating that I sent out 78 addressed envelopes containing all the notices of public hearing on June 30, 1995.

MR. COPPOLA: We just have some other information we're going to go through pictures for the board, copy of the deed and appraiser's report.

MR. NUGENT: That is from Mr. Lease, I have that.

MR. COPPOLA: Yeah, we sent that over today. First thing I'll do is just explain what our proposal is and then go through some items that we're going to present tonight in terms of our hardship under the use variance and how we're going to mitigate those things in terms of also the area variance that we're seeking. We're asking for two things, use variance and area variance. Just to give some preliminary information on what our proposal is, this is a conversion of an existing one story commercial building at 161 Walsh Road. It's in an R-4 zoning district. What we're proposing is basically a funeral home use for the building, which is essentially 1,800 square feet, one floor. It's basically what we're proposing is a minimum type of funeral home use, meaning that what we need for operation of this facility is what the minimum state requirements are for the operation of a funeral home. How that directly relates to why we think this facility

and this building suits our needs, one of those things is that what the state requires for a chapel or a viewing room for a casket would be a 300 square foot room, which is what we're proposing for this facility. So the rest of the interior is basically on those same lines. It's a minimum type of use that Mr. Rhodes will explain a little bit later on and how the services are conducted. But what we're doing is putting in essentially as many parking spaces as we can. The rear of this lot basically drops off pretty severely but what we're going to do is put in a couple retaining walls and basically achieve 13 parking spaces under the code which again we feel are going to be these are off-street parking spaces. Those 13 spaces we feel are going to be sufficient for the use for what we're proposing for the building. Then of course in terms of the exterior we're going to be renovating it, basically giving it a face lift and making it a much more presentable and attractive building than it is right now. So, those are kind of basics. What I'd like to address now is the items under the use variance the town has asked us to address and why we feel this is a hardship for what we're proposing. The town has basically outlined four items here under the use variance. Item number one is we are basically asked to propose why we cannot realize a reasonable return for this property. How we basically have done that is what I'd like to do is read quickly go through the uses that are permitted in this zone and if you take a look at pictures and know the building, you'll see that none of these uses can possibly fit this existing building, the users that are allowed in this zone right down the zoning ordinance reads commercial agricultural operations, building structures and uses owned by the Town of New Windsor, public parks and playgrounds, commercial forestry, outdoor recreation facilities, such as golf, ice skating or a pool, places of worship, public elementary schools, high schools and one-family dwelling. So those are the uses that are currently allowed in this town or in this zoning district in the R-4 zoning district. If you know this building at all, again it's a one story block building. It could be in no way renovated or converted to any of those uses. Even as a single will family house, I basically can really see that no one is ever going to buy this

building to convert this into a single family house. And what we have done kind of to substantiate that a little bit more is hired Mr. Ray Lease, he's a real estate appraiser and he's written a letter to the board basically stating that in his opinion, this 1,800 square foot block building has a highest and best use as proposed use and unfortunately none of the permitted uses in the R-4 zone would seem obtainable. So we're submitting this to the board. Basically, his opinion as a professional appraiser kind of reinforces what I have already said. Couple of the other things that we'd like to bring up again according to the town's requirements here that the alleged hardship relating to the property is unique. That does not apply to a substantial portion of the district or neighborhood, that is a little bit more difficult to kind of understand that but my understanding of that is that based on the reasons that I just said, the uniqueness of this building almost specifically excludes it from the uses that are provided here. If this was a wood framed structure or structure that could be easily converted into a use that is allowed in the zone that then this building would have a better use for something which is allowed in the zone. But I don't really think that it does and I think for that reason it's unique. Number 3, that the use that the requested use variance if granted will not alter the essential character of the neighborhood. From my perception of the neighborhood right now, I think what you have there on that stretch of Walsh Road is a very mixed use, you have different types of commercial uses, some residential uses, I'm not sure if there are multi-families in around in there or not. There may or may not be, just kind of a real quick impression of what's there is very mixed use. So I don't feel that our proposal would be substantially out of character with what you already have. And four, that this alleged hardship has not been self-created. No, this is a pre-existing use. It's a pre-existing structure. I am not sure how long it's been there but essentially what we're trying to do is take this pre-existing condition and use it for what we feel is appropriate use. And I think that is all I have to say and what we've submitted to the board is the deed, the pictures and copy of the appraiser's report.

MR. KANE: And this building's existing use prior to this point was commercial, hasn't been used for anything else?

MR. BABCOCK: I really don't have that knowledge, it was a commercial use prior to this Crystal Cleaners as far as Crystal Cleaners, as far as how long they were there, I'm not sure. I don't know if you have that information here.

MR. NUGENT: I don't recall what it was before, that I just don't recall. I know it was something else but I don't recall.

MR. THOMAS RUSSELL: There is a guy that moved in and lived there off and on, kind of like, I don't know if he was a vagrant or not, he was just basically hanging out there for about six or eight months. All the power was cut off and the water froze and he left.

MR. BABCOCK: I don't know what it was before Crystal Cleaners.

MR. NUGENT: Monroe Armature (phonetic) for years.

MR. COPPOLA: Mr. Rhodes is going to present some information regarding the operation of his business and why he feels this building would be appropriate for that.

MR. RHODES: In addition to what Mr. Coppola said, the funeral home use that I plan for the building would be basically our services, our calling hours are basically held in the church and services in the church. Basically you only use the funeral home for prepping and use them to make your arrangements. There are times that you have certain clients that do not have any relatives locally and social service requires you to have some type of services. State law requires you to have minimum of 300 square feet for chapel or services available. As you know, 300 square feet is a very small area. It's not a large area. I also brought along with me copies of obituaries here in the Middletown Record and it's not just myself, I have

several here from Kingston Freeman and as you can see, there's a funeral home that handles arrangements here in the City of Newburgh, the funeral home was out of Poughkeepsie, the calling hours was in the church and the services was in the church because they were handling the same type clients which I handle. Here is the Kingston Freeman is my last service I had just Saturday. Also, you can take a look at it and calling hours was held in the church and the service in the church which is in Kingston. I handle Kingston and Poughkeepsie. I handle New York. So the families are not coming to New Windsor. Basically, what it is you have to have someplace to operate out of. What I am trying to do is start my own place of operation. There would be a very minimal amount of traffic, the parking spaces would be just for clients coming in to do funeral arrangements. Strictly business oriented, not going to be a hangout place and we plan to take care of the exterior, do the landscaping before anything is done this will be done and probably inspected by the building inspector prior to anything being done. It will be strictly approved before we even handle one case there. But basically, this is how black funeral homes operate. I mean, I think what's happened to me since I have been trying to get funeral home here, I'm being told how a white funeral home operates and it's a totally different operation and they, if they do handle clients, they handle clients which will, record will show here the same way the calling hours is done in the church and the funeral is in the church. That is how it's done.

MR. NUGENT: You'll do the preparations there?

MR. RHODES: You would do the preparations there, yes.

MR. COPPOLA: In terms of off-street parking, if you have again a room that is 300 square feet, this is what we're going to be providing. This is, this is the minimum requirements that is required under the, it's a state health law. So you have a room, viewing room that is 300 square feet, you can picture that a room of that size could hold maybe 25 people. We're providing 13 parking spaces. So that ratio is basically better than one to two. So again, for those reasons, you

think of a funeral home as having hundreds of cars. This is not going to be the case here. It's a very small viewing room. You're going to have sometimes you're not even going to have all your clients are not even going to have calling hours.

MR. RHODES: That is right.

MR. COPPOLA: So even when they do have calling hours, it's going to be a very limited number of people, limited number of cars and we feel that 13 spaces that we're providing are going to be able to handle that.

MR. TORLEY: And you will not have a crematory facility?

MR. RHODES: No, we will not have a crematory facility, we're not allowed to have a crematory facility.

MR. NUGENT: You have limos that are going to be parked there or--

MR. RHODES: No, we have a garage for all our equipment, there will be no garage there, there will be no storage area.

MR. NUGENT: I notice there is a garage in that building.

MR. RHODES: No, we're getting rid of the garage, taking the garage out.

MR. REIS: How are you planning on the facade, the exterior?

MR. RHODES: What we're planning on to redo the exterior completely. The entire building has to be redone because it's falling apart. Part the roof now is caved in at this time. We have to have the roof redone and new roof put on. As we stated, the water was cut off in that building sometime last year. What happened I guess the pipes burst so the walls and everything is completely water logged, everything, so it has to be, the exterior has to be done and the interior of the building has to be done.

MR. COPPOLA: Probably going to end up with some type of awning or false roof around the front because there's nothing there, just a block wall. We'll refine it, that front exterior, when we go back to the planning board, that does require site plan approval so I'm sure there are stipulations with regard to landscaping and beautifying the property, you know, we're going to have to subscribe to but in terms of the building we're going to refinish the exterior, maybe some type of finishing system that goes right on the block, like I said, new windows, new entrance door and either like an awning or some type of a little false roof too.

MR. TORLEY: So you're converting a derelict building now into some productive use?

MR. RHODES: Yes.

MR. LANGANKE: How long has this been on the market?

MR. RHODES: Since 1990, I think.

MR. LANGANKE: I don't have anymore questions.

MR. KANE: I think it's time to open it up.

MR. NUGENT: At this time, I'll open it up to the public. Keep your comments to the board, not to the applicant and also try not to be repetitious. State your name and address.

MR. FRED ZAMENICK: 160 Walsh Road, New Windsor. I'm maybe about a hundred yards from the proposed funeral home. I want to go on record as opposing it. I don't agree with this, his evaluation of the area. It's a mixed area. I don't agree with it. It's basically residential. It always has been residential. That entire Clancyville area is residential. There are a few buildings that were there before but I don't agree with that mixed area that he is proposing here. I don't see it that way. I'm opposed to it. I'm opposed to anything that adds traffic there. That is a, they take a short cut from Newburgh, 32, and go over to 9W.

If you can see the traffic that goes through there, I have already experienced it once a car was parked alongside the road and I have a picture of a funeral car coming out there slow and there's going to be funerals coming out there right on that road, a car came out slow and blocked my car. Another car came around and he smashed into my car, did \$1,000 damage. Now that is going to be, the firehouse is right down from there and I think there's too much traffic in there and I still say that is a residential area, it's not a mixed area, it's basically residential. There's people right next door to that. I don't know what they think. But I don't think much of it myself just because it's 300 square feet there or whatever, doesn't make it a place for a funeral home.

MR. THOMAS RUSSELL: 165 Walsh Avenue. I live right next door to the building in question. It's been vacant for four or five years now, Crystal Home Cleaners was a good neighbor, they moved out and I guess it's been on the market like he said the roofs collapsed, the windows are falling in, I got a junk yard next door to my house. I guess people don't like the idea of a funeral parlor in the neighborhood. I would like to see something done about the building. Man says he is going to fix it up. It's on the market for four years. It's going to be on the market for another ten years. What am I going to have next door to my house? What am I going to have? Traffic is an issue, lot of things are an issue. I have a junk yard next door to my house and I'd like to see it cleaned up and if he is going to do it, God bless him.

MR. NUGENT: Thank you. Anyone else?

MR. JOHN BABCOCK: I live at 2 Blanche Avenue. I live around the corner from the site. I lived there all my life. My uncle's house is right next door to it. I'm here on behalf of myself, not my brother, who owns my uncle's house. First of all, do they own the property? Does the applicant own the property?

MR. COPPOLA: He's contract purchaser.

MR. JOHN BABCOCK: He doesn't own the property?

MR. COPPOLA: Right now, no, he's contract purchaser.

MR. JOHN BABCOCK: Because the issue is if he owns the property, when we get to the hardship test that he has to meet, he's created his own hardship so I'd like to have that answered first if he owns the property, he may well address the hardship issue that Mr. Coppola--

MR. COPPOLA: I think I can address both of your concerns. Linwood Rhodes is currently contract purchaser. He is going to contract but he doesn't own the property right now and we do have documentation from the existing owners basically give yourself, it's a proxy that gives us the right to be here. In terms of the hardship, what we're actually doing here tonight is acting for the existing property owner. You can look at it, it's basically the existing property owner and existing building.

MR. JOHN BABCOCK: Does he own it? If he does own the property, we'll forget the hardship issue. I'll go on to my next question, okay. If it's an R-4 zone, property has been vacant two years or more, then that wipes out any pre-existing use that was in that building, okay, so if it is passed two years which it's been publicly stated that it has been vacant for more than two years which I know it has been. So now it's in an R-4 zone, one that is not allowable in that zone.

MR. KANE: That is why he's here, sir.

MR. JOHN BABCOCK: I understand that. But there are uses for that facility other than what Mr. Coppola says not just for that facility, there are uses for that facility for that building. Mr. Zamenick touched on the traffic which is a very heavily traveled road, fire company right up the street. In other zoning regulations, I didn't measure it but we're close to within 75 feet or so of an intersection which will be addressed probably with planning board as to being so close to an intersection where he will locate those driveways. The property itself is a postage stamp lot. I don't know how in God's name they are going to be able to give him a variance for parking because there's

not enough space there. And I would suggest the board if any of the new members that aren't familiar with the property before you vote on it to go take a site visit so that we can see exactly what we're talking about that you are going to grant a variance for. I think the property toward the back on High Street is a very steep piece of property and I don't know how much of a retaining wall they are going to be able to put back there but I think that you're not going to get the required amount of parking spaces for which is required for this type of an operation. Talking about the uses of the property, single family home. That building is ready to fall down, as the neighbor said, we agree. The building is collapsing slowly but surely but that is a building inspector and fire inspector's responsibility to go see the previous owner, not to this gentleman but the previous owner to go after him to clean it up, tear it down. Now, if you tear it down now, you have got a residential lot which they are saying that there's no use at what the building is and that is true. That is true in the aspect of it's an R-4 zone now and that can be made into a single family home on that lot, according to our zoning regulations for small lots. Cause it is a very small lot. As they said, mixed uses on Walsh Road, I disagree with as Mr. Zamenick did, there is a lot of businesses along Walsh Road. And for years, it was always spot zoning over there prior to zoning, lot of those buildings were there prior to the zoning regulations. So we can't do anything about those. But we can do something about those that want to continue the use when they allow it to elapse, two year period has lapsed. Now, on the, if I might address the issue of the so-called viewing room or parlor that is had, isn't it so that when you have a body, I want to be careful about what I say, a body for viewing, isn't it state law that says you must have a caretaker on site?

MR. RHODES: No.

MR. JOHN BABCOCK: That is not true?

MR. RHODES: That is not true.

MR. JOHN BABCOCK: You would leave a body unattended in

the funeral room?

MR. RHODES: It's not attended if its in the funeral home.

MR. JOHN BABCOCK: How is it not unattended if you prepare the body, and have it for viewing for people, you don't leave it there unattended.

MR. RHODES: I'll leave it in the church overnight.

MR. JOHN BABCOCK: It's an issue.

MR. RHODES: The procedure here, all you have to do is pick up this paper here and you'll see that I am not the only one that is doing this. Any funeral home that has the same type of clients I handle that is tradition, that is what the family tradition is to have calling hours in the church and the funeral would follow the next day. No one sits there all night with the remains, even at the funeral home. Any funeral home you have in this state, no one sits there all night. If you have one licensed funeral director in the funeral home and he's there and he gets another funeral call, who is going to sit there with the body until he gets back?

MR. JOHN BABCOCK: I don't know the operation.

MR. RHODES: I'm explaining to you. You don't have to sit there and guard the remains.

MR. JOHN BABCOCK: Something that we should look into, Mr. Chairman, as to I understand I have got a different opinion on what's required for a body on the premises so that is another issue that I am concerned with. Now on this piece of property, to meet all the tests as a use variance, it's quite a test to reach and he's also just asking for an area variance and I think that there's plenty of properties in the town of New Windsor and we welcome you to our community, but I don't think this is appropriate building for the type of business that you want to put in there. And we don't want to chase business people away in our community, we need the taxables, I mean the rateables, we need the taxes.

But I don't think that this is an appropriate location for a funeral home, based upon all the things that are going to require to do that, I don't think you can meet all the tests under our zoning regulations. I would suggest that you find another location in the community which would be more adaptable for services or your type of services that you require. I think we're putting too much on the single family lot and I want to call it our city park, that is the name of our section of new Windsor, city park, I think that you're trying to put too much here. You're asking too much of the zoning regulations for this board to even entertain the thought of granting the variances. That is all I have to say.

MR. NUGENT: Thank you. Anyone else?

MS. GAIL VESELY: I live at 172 Walsh Road which is directly across from it. I object to having it there. If the building is in that bad of shape, condemn it and tear it down. I can't see having a funeral parlor, if I look out my bedroom window, I have to look at that. It's going to decrease the value of the properties around there. The houses aren't selling in our area as it is. And to have a funeral parlor across the street with traffic and all the other problems, everybody else has mentioned the building is in that bad of shape, condemn it and tear it down.

MS. STELLA ORZECOWSKI: Listen folks, I'm an old gal and I had surgery not long ago, so if I don't speak clearly and I act nervous, that is because I am. But I want to give you a picture a couple of years ago there was an attorney from New York City came here three times and once I was here 2 1/2 hours and he spoke like this gentleman because they wanted the variance on the property, crisscrossing by the Calvary Cemetery, they fought for that so hard but you didn't approve it because we call it Flynn's Hill, Walsh Avenue coming up the hill, trucks, oil trucks, cars loaded, trucks, cars, John Street which I travel around and around came out this way, cars going down the hill and then the oil company from the right as you're traveling east. And here is the Calvary Cemetery, they fought for it, it was for a boarding house, children's boarding house and

remember they were going to bus the children in all day and bus them out all night. Everybody turned it down. Two weeks later, the firehouse coming out, the fire truck comes out like this and God bless anybody that is in the way, they came out, the oil truck came up and they collided. The oil spilled into the Tenbrook property and I took pictures of it. Now, you're talking about a Quassaick Fire Company that comes out like a flash and if cars are in the way at that point you got problems down below, they are off the road at other places are off the road. Thompson's place, the Federal Block place, they are like a sidewalk. We don't have sidewalks but they are on what you call a sidewalk. But if this gentleman is going to have cars coming in and out, you got problems when that fire truck comes out. I'm afraid you better all think about that seriously. I, personally, saw the accident right below this establishment right at the crossroads. I hope everybody heard me.

MR. NUGENT: Mr. Coppola, would you like to address that? I know your are chomping at the bit to address a couple of the comments. Before you do that, I have a list of the funeral home establishments, administrative rules and I can't find anything in it that says there must be an attendant. I don't know if this is all of them.

MR. RHODES: That is it.

MR. COPPOLA: I'd just like, I have got two things that came up. Number one, in terms of our approval process like I already stated, this is only one step. We would have to go back in if we're approved tonight, we'd have to go back to the planning board and meet their regulations in terms of off-street parking, site lighting, landscaping, handicapped accessibility, paving and the whole nine yards. This property has been recently surveyed. We are aware of the slope that is in the rear yard and it's an accurate survey. My firm has, we have a fair amount of experience in terms of layout of parking and layout of site plans and I am sure you, that what's on here will work in terms of the size of the cars and the lot that this faces basically what the Town of new Windsor requires us to do is a

parking space of 10 foot by 20 foot deep, we're also providing handicapped space and handicapped aisle. And we have taken into account grading and what we are reasonably confident what we're showing on here will work, it's going to take some improvements but it's not something that we just scribbled down without thinking about. We'll have to meet the Planning Board's requirements after hopefully after we're done here tonight. Second thing I'd like to address is this existing lot is, if I am reading this correctly, is only 13,350 square feet, that doesn't even meet the minimum lot areas for a single family house, even with both central sewer and water. So even tearing it down you still have a non-conforming lot and a non-conforming use.

MR. NUGENT: All right, is there anyone else in the audience that would like to speak?

MS. VESELY: If they approved it as a funeral home, supposing he vacates it and it's a different kind of funeral that home that is going to have viewing, so once you give a variance, you can't stipulate that it is just his business that is going to be okay and not the next guy.

MR. NUGENT: Variance goes with the land, not with the applicant. Anybody else?

MR. ZAMENICK: I can't understand that it's too small for a house right you're saying.

MR. COPPOLA: I'm reading out of the zoning ordinance.

MR. ZAMENICK: But they could get a variance for a, house, right there's an R-4 area, it's a residential area.

MR. NUGENT: It's only 2,000 square feet.

MR. ZAMENICK: You're going to say or you're going to give a variance for a funeral home or someone that can use it for a residence. I have seen other residential homes in our area much smaller than that. I only see this but it's a 300 square foot building and it's an

R-4 area, somebody has a use, going to utilize it for a funeral home, something that doesn't belong there. I think that should be looked at before you give a variance.

MR. NUGENT: Anyone else?

MR. JOHN BABCOCK: I don't want to get into a debate with Mr. Coppola but this is a small lot, requirements under that, this is a small lot, requirements under the zoning regulations you're saying it's 13,500?

MR. COPPOLA: 13,350.

MR. JOHN BABCOCK: Require 15,000 with water and sewer, so it can be varied and can be built upon for a single family home. I want the record to reflect that that can be built on for a single family home. And also we got to keep in mind once the variance is granted, it goes with the property. So once you grant that variance, this board grants that variance, now it goes with the property.

MR. NUGENT: Is there anyone else in the audience?

MS. SHIRLEY ZAMENICK: I live at 160 Walsh Avenue and I'm against it from the traffic, everything.

MS. MARY CONNOLLY: I'm against it too with the traffic and everything else.

MR. JOHN BABCOCK: On Walsh Road, there is a mixture of businesses that have been there, most of them prior to zoning and these neighbors are sitting right here, had to live with a lot of things in their area, they couldn't do nothing about, meaning a welding shop by the Connollys and by the Zamenicks, the block company has been there, trucks all hours of the night. They have put up with a lot so that is why I am asking this board to not grant this variance, to take into consideration the neighbors over here and what we have put up with for years with the various businesses that have been there prior to zoning.

MR. NUGENT: Thank you.

MR. THOMAS: Everybody has issues with the parking and traffic but what's going to become of this building two years down the road if somebody doesn't come in there and do something, who is going to chase the previous owner and say come knock down this building and hold him accountable for what's going on there? Somebody's looking to put a business in there and make it a profitable venture and pay taxes, I mean I'm looking at it, you know, in three months time we're going to be here with somebody wanting to put a bar and grill next to my house which the option of a funeral seems like a pretty quiet neighbor next to a chicken place or bar and grill. I don't know what else can go in there. Nobody's going to build a house. It's been there for five years. I had a guy living there coming and going, you know, somebody came and looked at it, said they wanted to put a dog kennel in there, I mean dogs barking all night next to my house. I think you have got to look at it seriously. There's a business looking to go in there. If you address the traffic issues, address the parking issues, all the other issues out there, I'm just looking for a good neighbor, somebody that is going to clean the place.

MS. ORZECOWSKI: Mr. Reis, it's up to you and me to find him a good neighbor now. What do you say? A quiet one, no traffic.

MR. REIS: Okay.

MS. ORZECOWSKI: It's been there for five years already so.

MR. JOHN BABCOCK: Mr. Chairman, talking about being on the market for four or five years as two real estate people sitting here, maybe the price is too much, maybe they are asking too much.

MR. RHODES: I'd like to make one final comment. If you are concerned about traffic, a funeral home won't be your traffic problem. It's not going to increase your traffic there, even if it was a calling hours, which is normally held, you're used to 2 to 4 and 7 to 9, that is what you're used to. So even if you are

going to have calling hours there 2 to 4, 7 to 9, I have been in the funeral business now about 16 years in the City of Newburgh. We have never had a 2 to 4 calling hour and you can't find no record of any obituary, record written that we had 2 to 4. We do have 7 to 9 calling hours and basically it's done in the church. And when you leave out of our funeral home going to the church, you'll have two vehicles that will be your utility vehicle and your coach, that is all you're going to leave, you know. We have to base this, this on how our funeral home operates. You can't base this on what you're used to in the area funeral homes because they all work totally different. If the area funeral homes do have any type of clients, they do the same identical thing that I am doing, their calling hours is in the church and the funeral follows. Obituaries there from Kingston down to Newburgh shows that. One other thing, if you show me one black funeral home from New York City to Albany with off-street parking, I'll buy it. You think about that every black funeral home you have seen there is no off-street parking because it's not necessary from New York City to Albany. Matter of fact, if you go in New York City, they have store front just like this zigzag, zigzag store front, no off-street parking here in the City of Newburgh. You have one which is a funeral home. Where I am working out of right now there's no off-street parking over there in the City of Poughkeepsie funeral home there, no off-street parking. Funeral home that is, that Kingston, no off-street parking, I'm talking in terms of black funeral homes. I can't tell you about the other funeral homes because they run their operation different but traditionally, our services, this is what the blacks want, they want calling hours in the church and service to follow. Even if it is the same day, we even have night funerals, that is tradition and that is what they want. Now our funeral home would not increase traffic. It would do more to enhance your community than anything else. If you are talking about the value of your home, I think a building fixed up nice, someone come to buy your home, a funeral home is not going to take away from your home. If it's dilapidated, building will take away from your home. But I'd much rather see a nice building over there with not vegetation growing up

over the side of it and the whole building is just about overcome by vegetation at this point.

MS. VESELY: But once you let the variance go, then it doesn't matter if he vacates it what goes in there.

MR. RHODES: That is what I was trying to address here. someone else buys that funeral home, as you see that state requirement law there is for every funeral home there is, if someone else buys it, that is the only way they can operate it, they couldn't operate any other way. They couldn't change it if they wanted to. What you got to look at this sure is no white funeral home is going to buy that funeral home. The reason they are not going to buy it is because they can't have calling hours in it, they are not going to buy it because they can't have calling hours in it, okay. Now you are stuck with me for at least 20 years, if I buy it, you're stuck with me for 20 years and you think the money I have invested already that I am going to invest it in that building and fix that building up because first of all, in order for me to operate not only do I have to met the requirements for the Town of New Windsor but the New York State Funeral Service Board has to come, the exterior of that building has to be perfect before they'll let me operate out of it. The interior of the building has to be perfect, the roof has to be fixed. You can't have the facade around the windows hanging, you got to have landscaping. They are not interested in the parking lot but they want the interior, exterior of the building perfect when they come but any other person that purchases that building, they'd have to do the same operation or they wouldn't think about it. Basically, it's going to be what you call a trade service but in order to have a trade service, you have to have existing funeral home, that is all.

MS. ORZECOWSKI: They said parking for 13 cars?

MR. RHODES: Yes, ma'am.

MR. ZAMENICK: You're only using two cars, why do you need all the parking?

MR. RHODES: Town is requiring us to have the parking. I'm spending the money to make the place look good in the town.

MR. ZAMENICK: That is in the front.

MR. RHODES: Doesn't make any difference.

MR. NUGENT: That is town requirements for the square footage of that building.

MR. KANE: He has to have it whether he uses it or not, according to the town.

MR. RHODES: In order to make the place look good, we have to clean it up.

MRS. ZAMENICK: And he can use it as a funeral home.

MR. KRIEGER: Every use that is specified in the town wherever it is has attended to it parking, non-residential use has attended to it parking requirements. Now naturally the parking requirements are different depending on the use but they all have parking requirements. And the problem this applicant has run up against is the parking requirement for this kind of use has nothing to do with the zone. It's in the parking requirement for this kind of use is more parking than they have available so that they are seeking a permission from this board to vary that requirement.

MS. VESELY: What's the town's requirement?

MR. BABCOCK: 30.

MS. LORETTA BROWN: I live at 3 Melrose. He was comparing in New York with the parking and that there's no off-street parking, you're talking different areas when you compare to Poughkeepsie. Poughkeepsie doesn't have off-street parking. In New Windsor, we have off-street parking. On Walsh Road that is not an off-street parking area. You have, he says he doesn't have many viewings at the premises. But one day they do have a viewing, now we have cars in the parking lot,

we have cars up Walsh Road, fire whistle blows, fireman coming from all over the area, fire trucks coming cars, pulling in and out of his facility. You're going to have a big problem on your hands. And there is a no parking posted on Walsh Road, on and off the street and on behalf of my husband, who's a fireman, he feels that that would propose a problem to him trying to get to a fire, trying to get home from a fire after fighting fires for hours on end and he feels there'd be no, you know, it would not be a good spot for this funeral parlor to be. I mean, he's, you know, there's two cars parked on each side and the fire truck and vehicles trying to get passed, it's not going to work. You can't fit four vehicles across Walsh Road.

MR. RHODES: I agree with you, we don't plan on doing that. I agree with you.

MS. BROWN: What if you have that?

MR. RHODES: It's not going to be and if--

MS. BROWN: If you do have to have it at the funeral parlor, whether it's 20 people that come and you can fit 13 cars, he says you can fit 13 cars, sometimes there's 25 people that can fit in the building and the chapel, you know, you figure one or two people a car but if it's one or two people come and there's 20 cars, now we have a problem.

MR. RHODES: You're right.

MR. TORLEY: Also no parking permitted on the road.

MS. BROWN: No, now where are these people going to park at the firehouse?

MR. RHODES: That is what I am saying to you. If there's no parking, I was chief of police in Highland Falls for eight years prior to coming to Newburgh, if there's no parking on the street to me as businessman or whatever, I can't authorize someone to park out on the street.

MS. BROWN: Where are your people going to park, up in

the firehouse?

MR. RHODES: No, no, they have no intention of using it. We have no intention of using the firehouse because the fire, it would be the same thing if I block up the firehouse, what about my building? That is an investment to me. I want to use the fire services too.

MS. BROWN: If there's extra cars and you as an ex-policeman, you're not going to let them park on the street because it's a no parking, where are you going to let them park? Are you going to let them park up and down?

MR. LANGANKE: We can't deal in what ifs, you can say if they have a hundred people coming.

MS. BROWN: Where are they going to go?

MR. LANGANKE: We have to take people at their word and if he says he's not going to need more than 13, you can draw your analogy to a hundred people coming. We can't deal in what ifs.

MR. THOMAS: There's cars parked all up and down the front of my house, they have bingo, they have Vegas night, they have weddings, christenings, they are all parked up and down the front of my house is the only point I'm trying to make.

MR. TORLEY: Again that is really not part of this board's domain, if you have problems with people parking there where there's no parking call the cops and have them ticketed.

MR. ZAMENICK: I only want to make one more point once you give a variance for funeral home, it will be a funeral home forever, it will never be a residential lot again with a variance or without a variance and I know I am going to have to go to a funeral home some day cause I'm going to die too but there's a something about funeral homes and it's something you can't get away from, people will not, if they tore the funeral home down, eventually nobody would buy the lot to live in it, would never be residential again. So you are

going to take a residential lot away.

MR. JOHN BABCOCK: I want to get back to all their concerns are well taken and as far as traffic and parking on the street and all those things, this all adds to what we're trying to tell this board tonight. But I'd like to go back to meeting the tests under a use or under an area variance. And I just made a couple notes and I don't believe that the applicant addressed getting reasonable return for this property. I don't believe that he submitted substantial evidence about the financial portion, competent financial evidence. I believe that this funeral home, if the variance is granted, will change the character of the neighborhood. These are the tests that he must prove to this board tonight which I don't feel sitting here that he has submitted enough evidence to show us that he meets or exceeds any of these tests. And the area variance, I think the use variance is the most important at this point. That is all I have to say.

MR. NUGENT: Anything further from the public? If not, I'm going to close the public hearing and open it back up to the Mr. Coppola and our board for any further questions for discussion.

MR. TORLEY: No questions.

MR. LANGANKE: How many notices did you send out?

MS. BARNHART: 78.

MR. NUGENT: Best turnout we have had in a long time.

MR. KANE: No questions.

MR. REIS: I have no questions.

MR. KANE: No questions.

MR. NUGENT: Are you satisfied with the information that you have or would you like to ask some more questions?

MR. KRIEGER: I'm satisfied that I have--there are no

questions.

MR. TORLEY: Entertain a motion regarding this?

MR. NUGENT: Yes, I will.

MR. TORLEY: I move that we grant the requested area variances.

MR. NUGENT: I think we're going to have to do this one at a time.

MR. KRIEGER: In this case, you should do them separate.

MR. TORLEY: I move we grant the requested use variance.

MR. KANE: Second it.

MR. REIS: Because of my position, I will abstain.

MR. KANE: Well, with an explanation, I think Mr. Rhodes has offered a valuable service to the neighborhood and he's made a real good outlook for the neighborhood, but I think what the people in the neighborhood are saying is that what that is going to do is change the essential character so I am going to say no.

MR. NUGENT: We can't vote on this. We cannot vote on it tonight because we haven't gotten the information back from the Orange County Department of Planning.

MR. BABCOCK: Thirty days.

MR. NUGENT: The secretary just showed it to me. We have to give him 30 days.

MR. KRIEGER: You can't vote on it but the only thing is the vote would have to be contingent on that.

MR. KANE: If that is the case, I would personally, Larry, if this is okay, I'd like to move that we wait for that 30 day notice to come in from the county and

I'd like to be able to go down and take a look at the area after everything that has been put forth to the board. I'd like to take a look.

MR. KRIEGER: You're moving to table it?

MR. KANE: Yes.

MR. LANGANKE: How does the applicant feel about this?

MR. COPPOLA: We'll go along with further examination by the board.

MR. RHODES: I would appreciate that.

MR. KANE: I think you're bringing a very good business to the area. I'd like to see the neighborhood, I'm getting a lot of different stories about what's going there and I have been through it but I don't know the, know it that well. And with the case that we have to wait 30 days for the county to respond to us, we're not delaying anything that we can change anyway.

MR. NUGENT: Are you making a motion to table?

MR. KANE: Yes, I am.

MR. LANGANKE: I second it.

ROLL CALL

MR. REIS	AYE
MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE

MR. BABCOCK: Is there a date that we're tabling this to?

MR. NUGENT: We have to wait until the 29th of this month to give them the 30 days.

MR. BABCOCK: As of right now, there's no date.

July 10, 1995

39

MR. NUGENT: Basically the next meeting.

MS. BARNHART:: That is August 14th.



1763

TOWN OF NEW WINDSOR

555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553
(914) 563-4610
FAX 914-563-4693

OFFICE OF THE SUPERVISOR

ZBA

R.F. - 9/11/95 -

ZBA -

August 16, 1995

Mr. Anthony Coppola, RA
175 Liberty Street
Newburgh, NY 12550

Dear Mr. Coppola,

I am writing to you regarding your correspondence dated August 8th concerning the property at 161 Walsh Road.

At this time the Town of New Windsor is not interested in purchasing or developing this lot for its own use. However, the Town reserves the right to purchase or develop this lot in the future.

If I can be of any further assistance, please call my office.

Very truly yours,


George J. Meyers, Supervisor
Town of New Windsor

GJM/dg

cc: ~~James Nugent, ZBA Chairman~~
Michael Babcock, Building Inspector
Pat Barnhart, Attorney's Office

NEW YORK STATE DEPARTMENT OF HEALTH

FUNERAL DIRECTING SECTION

REQUIREMENTS FOR REGISTRATION OF A FUNERAL FIRM

A funeral firm may be operated in four different ways; that is,

1. By a duly licensed and registered funeral director or undertaker using his own name with no other words added, in which case we require:
 - (a) a certificate executed under penalty of perjury by the applicant certifying that he is the only person having a proprietary or financial interest in the business

OR

2. By a licensed and registered funeral director or undertaker using an assumed name; in which case we will require:
 - (a) a certified copy of the assumed business name certificate filed with the County Clerk
 - (b) a certificate executed under penalty of perjury by the applicant certifying that he is the only person having a proprietary or financial interest in the business

OR

3. By a partnership, in which case we require:
 - (a) all partners be duly licensed and registered funeral directors or undertakers
 - (b) names and addresses of each partner
 - (c) a certified copy of the assumed business name certificate filed with the County Clerk
 - (d) a certificate executed under penalty of perjury indicating all persons having a proprietary or financial interest in the business

OR

4. By a corporation, in which case we require the following:
 - (a) a true copy of the certificate of incorporation as filed with the Secretary of State
 - (b) a copy of the notice from the Secretary of State showing that the corporation has been duly incorporated
 - (c) a copy of the Corporate Resolution, signed by the secretary of the corporation, designating the licensed and registered funeral director or undertaker who will serve as manager.

In addition, we require that the establishment conform and comply with the applicable provisions of Administrative Rule 77.5 as outlined on reverse side.

NEW YORK STATE DEPARTMENT OF HEALTH - 77.5 FUNERAL ESTABLISHMENTS

Administrative Rule - 77.5 Funeral Establishments

- (a) The business and practice of funeral directing shall be conducted and registered only from a fixed funeral establishment.
- (b) Separate buildings or portions thereof connected by a private passageway, walk or driveway shall constitute a single funeral establishment.
- (c) After February 28, 1974, all funeral firms and their funeral establishments shall comply and conform as follows:
 - (1) Embalming. No embalming of a body of a deceased person shall be performed in a funeral establishment except in a room set aside exclusively for embalming or other preparation of a body of a deceased person. Such room shall be maintained and kept in a clean sanitary condition.
 - (2) Embalming and preparation room. Every embalming and preparation room shall be constructed, equipped and maintained as follows:
 - (i) The surfaces of the floor, walls, and ceiling shall be covered with tile or other hard, smooth, impervious washable material.
 - (ii) The room shall be adequately lighted and adequately ventilated. The ventilation shall be provided by an exhaust fan or by an appropriate air-conditioning unit which will completely remove objectionable fumes.
 - (iii) The room shall be equipped and provided with hot and cold running water, a utility sink, and cabinets, closets or shelves for instruments and supplies.
 - (iv) The room shall be equipped with adequate sewage and waste disposal and drainage facilities and systems.
 - (v) The doors shall be tight closing and rigid and any windows of the room shall be so maintained as to obstruct any view into such room.
 - (vi) The embalming or preparation table shall be non-porous.
 - (vii) The room shall be equipped with proper and convenient receptacles for refuse, bandages, cotton and other waste materials.
 - (3) Business telephone. Every registered funeral firm shall have listed and in working order at its registered address a business telephone, the number of which shall be indicated as the business telephone number. Any other telephone number also listed for the funeral firm shall be specifically designated as "residence telephone number," "number to call if no answer," or otherwise identified.
 - (4) Display of signs. Every registered funeral firm shall display a sign indicating the true funeral firm name as registered with the department. Such sign shall be conspicuously located at or near the main entrance and shall be visible from the exterior of the building. The lettering of the funeral firm name shall be legible and shall have a minimum height of one and one-half inches. Wherever the name of the funeral firm appears on a sign indicating the location or presence of an establishment, only the funeral firm name registered with the department shall be used. A change in a funeral firm's registered name shall be indicated on any and all signs. Signs shall conform with all local laws, ordinances, and regulations.
 - (5) Listings, publications and advertising. Only true funeral firm names and addresses as registered with the department shall appear in telephone listings or other publications and in advertising by any media whatsoever of funeral firms. This paragraph shall not apply to the listing or advertising of funeral firms outside the State.
 - (6) Food and beverages. The provision of space, facilities, equipment, accommodations or supplies for, or the preparation, sale, service or distribution of, food or beverages in any part of a funeral establishment to or by, friends, relatives, mourners, family, visitors or next of kin of any deceased person in the funeral establishment is prohibited.
- (d) Any funeral establishment of a funeral firm registering after February 28, 1974, shall, in addition to the provisions of subdivision (c) of this section, contain at least one of each of the following:
 - (1) A chapel or repose room containing at least 300 square feet of floor space to be used exclusively for the conduct of funeral services.
 - (2) An arrangement office to be used exclusively for making funeral arrangements and for other related business matters.
 - (3) A preparation room containing at least 120 square feet of floor space. The preparation, disinfection, embalming, washing, dressing and casketing or other care of a body of a deceased person shall take place only in such room, which room shall contain only articles and equipment necessary for such preparation. Such room and equipment, instruments and articles contained therein shall be maintained and kept in a clean and sanitary condition. Temporary storage of an uncasketed body of a deceased person awaiting burial or other final disposition shall take place only in such preparation room or in a storage room in a manner acceptable to the commissioner.
- (e) No change in name or transfer of title or interest to a successor entity or transfer of title to or leasehold of real property wherein a funeral establishment is located by a firm registered prior to March 1, 1974, and continuing thereafter to operate from such funeral establishment shall require compliance with the provisions of subdivision (d).

Prelim.
June 26, 1995

OFFICE OF THE PLANNING BOARD - TOWN OF NEW WINDSOR
ORANGE COUNTY, NY

95-36

NOTICE OF DISAPPROVAL OF SITE PLAN OR SUBDIVISION APPLICATION

PLANNING BOARD FILE NUMBER: 95-20

DATE: 5-23-95

APPLICANT: LINWOOD RHODES, JR

37 SOUTH ST

HIGHLAND FALLS N.Y. 10928

PLEASE TAKE NOTICE THAT YOUR APPLICATION DATED JAN-8-95

FOR (~~SUBDIVISION~~ - SITE PLAN) FOR A FUNERAL HOME

LOCATED AT 161 WALSH ROAD

ZONE R4

DESCRIPTION OF EXISTING SITE: SEC: 13 BLOCK: 5 LOT: 29

IS DISAPPROVED ON THE FOLLOWING GROUNDS:

#1 FUNERAL HOME NOT PERMITTED IN A R4 ZONE

#2 OFF STREET PARKING REQUIRED 30 AVAILABLE 13

VARIANCE REQUEST 17

Michael Babcock
MICHAEL BABCOCK,
BUILDING INSPECTOR

<u>REQUIREMENTS</u>	<u>PROPOSED OR AVAILABLE</u>	<u>VARIANCE REQUEST</u>
ZONE <u>R 4</u> USE <u>NEED USE VARIANCE</u>		
MIN. LOT AREA		
MIN. LOT WIDTH		
REQ'D FRONT YD		
REQ'D SIDE YD.		
REQ'D TOTAL SIDE YD.		
REQ'D REAR YD.		
REQ'D FRONTAGE		
MAX. BLDG. HT.		
FLOOR AREA RATIO		
MIN. LIVABLE AREA		
DEV. COVERAGE		
O/S PARKING SPACES		

30

13

17

APPLICANT IS TO PLEASE CONTACT THE ZONING BOARD SECRETARY AT:
(914-563-4630) TO MAKE AN APPOINTMENT WITH THE ZONING BOARD
OF APPEALS.

CC: Z.B.A., APPLICANT, P.B. ENGINEER, P.B. FILE

6/14/95

RHODES, LINWOOD SITE PLAN (95-20) WALSH ROAD

Mr. Anthony Cappola appeared before the board for this proposal.

MR. PETRO: Did we review this, not under your application, did we review this for a funeral home?

MR. VAN LEEUWEN: This is on the other end of Walsh Avenue.

MR. PETRO: It's on the other end?

MR. VAN LEEUWEN: Yeah, it's right by Quassaick Firehouse.

MR. CAPPOLA: Here's some pictures of the existing building, in case somebody wants to look.

MR. PETRO: What zone is this in here?

MR. CAPPOLA: This is in an R-3 Zone on, I'm sorry, R-4 zone, 161 Walsh Avenue. Basically, we prepared a sketch plan tonight, preliminary introduction to the project, but we realize right off the bat that we're non-conforming in two areas, the use we're proposing a funeral home in an R-4 and the parking requirement, I think the zoning ordinance requires 35 or 30 some odd spaces per parlor and we don't have nearly that each. Basically, just a little orientation of the site here, the west side here is, excuse me, the south side is Walsh Road, it's a pre-existing one story block structure, I think it's about 1,800 and close to 1,900 square feet. Crystal Cleaners I think was the last occupant over there.

MR. VAN LEEUWEN: What he needs is a motion to deny and I'll so move. I'll make a motion to approve it.

MR. DUBALDI: Second it.

MR. PETRO: Motion has been made and seconded that the new Windsor Planning Board give final approval to the Rhodes, Linwood site plan on Walsh Road. Is there any further discussion from the board members? If not,

roll call.

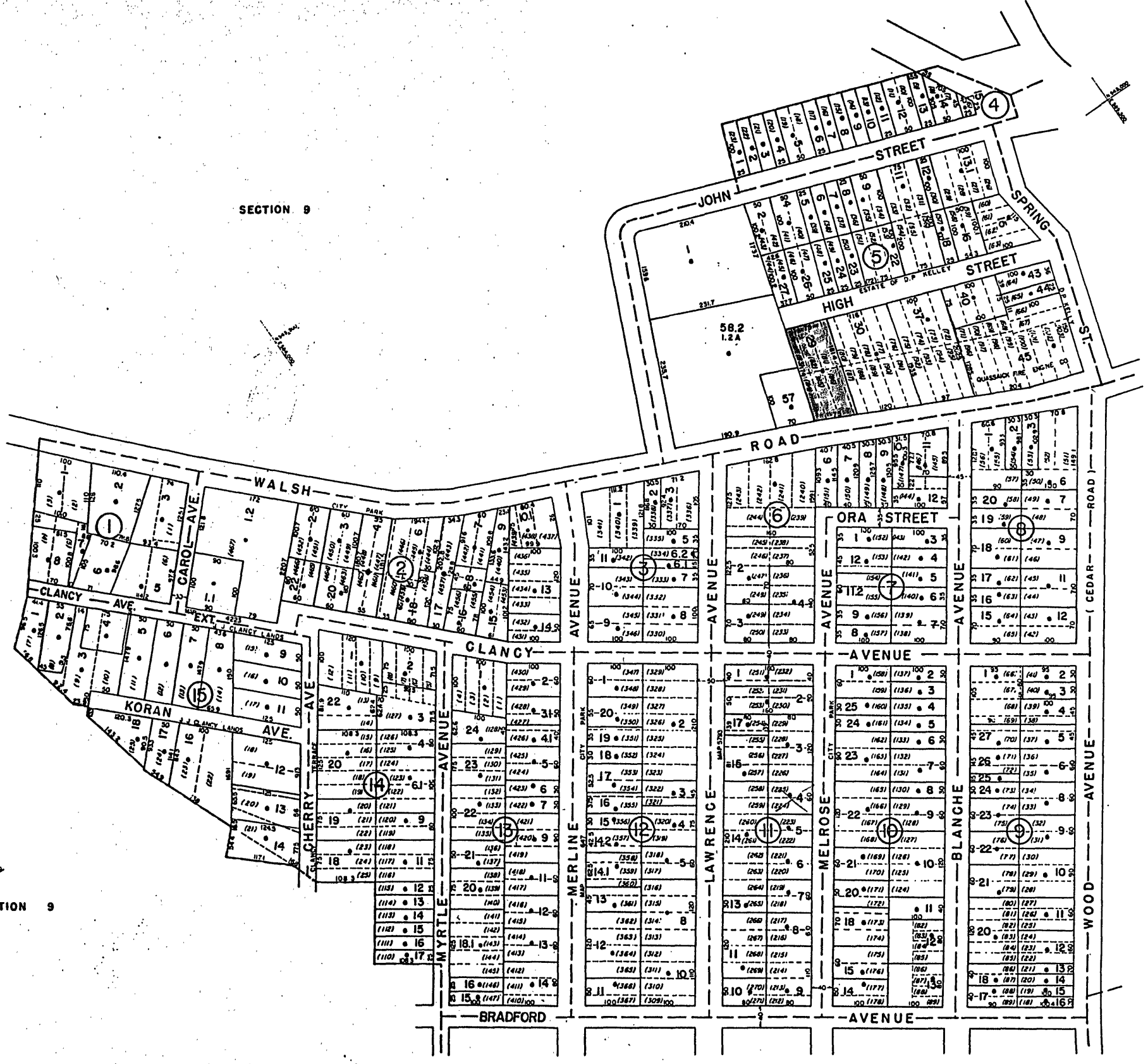
ROLL CALL

MR. VAN LEEUWEN	NO
MR. STENT	NO
MR. DUBALDI	NO
MR. LANDER	NO
MR. PETRO	NO

MR. PETRO: You therefore must receive the necessary variances that you require and once you have those from the New Windsor Zoning Board, you'll appear before this board again.

MR. CAPPOLA: Okay, thank you.

13-5-29



SECTION 14

SECTION 15

942

ALL NEWBURGH SCHOOL DISTRICT
ALL QUASSACK BRIDGE FIRE DISTRICT

Prepared by
AERO SERVICE CORPORATION
DIVISION OF A-1700-103-2074-01
400 VAN ALLEN ST. NEW YORK, N.Y. 10017
FOR TAX PURPOSES ONLY
NOT TO BE USED FOR CONVEYANCE

LEGEND			
STATE OR COUNTY LINE	FILED PLAN LOT LINE	TAX MAP BLOCK NO.	FILED PLAN BLOCK NO.
CITY TOWN OR VILLAGE	EASEMENT LINE	TAX MAP PARCEL NO.	FILED PLAN LOT NO.
BLOCK & SECTION LIMIT	WATCH LINE	AREAS	STATE HIGHWAYS
SPECIAL DISTRICT LINE	STREAMS	DIMENSIONS	COUNTY HIGHWAYS
PROPERTY LINE			TOWN ROADS

ORANGE COUNTY~NEW YORK

Photo No. 14-30,31 Date of Map: 9-24-67
Date of Photo: 3-1-65 Date of Revision: 3-1-68
Scale: 1" = 100'

TOWN OF NEW WINDSOR

Section No. 13

ORANGE COUNTY DEPARTMENT OF PLANNING
APPLICATION FOR MANDATORY COUNTY REVIEW
OF LOCAL PLANNING ACTION

(Variances, Zone Changes, Special Permits, Subdivisions, Site Plans)

Local File No. 95-36.

1. Municipality Town of New Windsor Public Hearing Date 7/10/95.
☐ City, Town or Village Board ☐ Planning Board ☒ Zoning Board

2. Owner: Name Alex Santori & Robert Kohl.
Address (same address)

3. Applicant*: Name Linwood Rhodes
Address 37 South Street, Highland Falls, NY 10928.
* If Applicant is owner, leave blank

4. Location of Site: 161 Walsh Road, (near John Street)
(street or highway, plus nearest intersection)

Tax Map Identification: Section 13 Block 5 Lot 29

Present Zoning District R-4 Size of Parcel 75 X 181 IR ±

5. Type of Review:

Special Permit: _____

Variance: (Use) Funeral Home. (formerly Crystal Cleaners)

(Area) Insufficient Parking - need 30 - has 13.

Zone Change: From _____ To _____

Zoning Amendment: To Section _____

Subdivision: Number of Lots/Units _____

Site Plan: Use _____

6/29/95.
Date

Patricia A. Barnhart, Secy
Signature and Title

ZONING BOARD OF APPEALS : TOWN OF NEW WINDSOR
COUNTY OF ORANGE : STATE OF NEW YORK

In the Matter of Application for Variance of

Linwood Rhodes,

Applicant.

AFFIDAVIT OF
SERVICE
BY MAIL

95-36.

STATE OF NEW YORK)
) SS.:
COUNTY OF ORANGE)

PATRICIA A. BARNHART, being duly sworn, deposes and says:

That I am not a party to the action, am over 18 years of age and reside at 7 Franklin Avenue, New Windsor, N. Y. 12553.

On June 30, 1995, I compared the 78 addressed envelopes containing the attached Notice of Public Hearing with the certified list provided by the Assessor regarding the above application for variance and I find that the addressees are identical to the list received. I then mailed the envelopes in a U. S. Depository within the Town of New Windsor.

Patricia A. Barnhart
Patricia A. Barnhart

Sworn to before me this
30th day of June, 1995.

Deborah Green
Notary Public

DEBORAH GREEN
Notary Public, State of New York
Qualified in Orange County
4984065
Commission Expires July 15, 1995

(TA DOCDISK#7-030586.AOS)

CONSTRUCTION OF COMMERCIAL BUILDING AS AFORESAID.

13-5-24.1 PERREN, CATHLEEN AREA VARIANCE GRANTED
27 HIGH STREET R-4 ZONE #89-38 09/11/89
REQUEST FOR 2 IN. REAR YARD VARIANCE IN ORDER TO OBTAIN A
CERTIFICATE OF OCCUPANCY ON AN EXISTING SINGLE-FAMILY RESIDENCE ON
HIGH STREET.

~~13-5-29~~ SCHEER, CARLOS SPECIAL PERMIT GRANTED W/ RESTRICTIONS
161 WALSH ROAD ~~PI ZONE~~ #78-23 9/11/78
REQUEST FOR SPECIAL PERMIT FOR THE MANUFACTURE AND INSTALLATION
OF VINYL AUTOMOBILE TOPS IN A PI ZONE.

13-6-11 MEHL, DIXIE/LEON HEIGHT VARIANCE GRANTED
HALLMARK FLORIST-CORNER BLANCHE AVE/WALSH #76-17 07/19/76
REQUEST FOR FLORIST SHOP IN R-4 ZONE AT ABOVE ADDRESS.

13-7-7 DI DONATO, EDNA AREA VARIANCE GRANTED
18 CLANCY AVENUE R-4 ZONE #90-20 10/22/90
REQUEST FOR 7 FT. SIDE YARD AND 8 FT. REAR YARD VARIANCE TO
CONSTRUCT STORAGE SHED AT CLANCY AVENUE RESIDENCE.

13-8-6 RUMSEY, CHARLES VARIANCE GRANTED
179 WALSH AVENUE #71-10
NO INFORMATION AVAILABLE ON THIS APPROVAL.

13-8-19 VON HALLE, DOROTHY AREA VARIANCE GRANTED
9 BLANCHE AVENUE #85-46 R-4 ZONE 01/27/86
REQUEST FOR 13 FT. SIDEYARD VARIANCE TO PERMIT CONSTRUCTION OF
CARPORT IN R-4 ZONE.

13-9-17 MOWERY, LAWRENCE AREA VARIANCES DENIED
69 BRADFORD AVENUE #84-10 R-4 ZONE 08/13/84
REQUEST FOR 35 FT. REAR YARD AND 10 FT. SIDE YARD VARIANCE TO
CONSTRUCT GARAGE ON RESIDENTIAL DWELLING IN R-4 ZONE.
#85-1 - REQUEST FOR 24 FT. 9 IN. FRONT YARD VARIANCE AND 2 FT. 6
IN. REAR YARD VARIANCE AND VARIANCES FROM SECTIONS 48-14A(1)(b),
48-14B(1), 48-14B(2) AND 48-14C(4) IN ORDER TO CONSTRUCT GARAGE ON
RESIDENTIAL PARCEL LOCATED IN R-4 ZONE. VARIANCES DENIED.

13-9-22 ROBINSON, BERNICE/GORDON VARIANCE-AREA GRANTED
22 BLANCHE AVE. #77-10 R-4 ZONE 7/9/77
REQUEST FOR 9,600 S.F. LOT AREA, 40 FT. LOT WIDTH AND 17 FT. FRONT
YARD VARIANCES.

13-10-1 STENT, JEFFREY A. AREA VARIANCES GRANTED
15 MELROSE AVENUE R-4 ZONE #91-25 04/13/92
REQUEST FOR 11 FT. 6 IN. FRONT YARD AND 9 FT. 6 IN. REAR YARD.

13-10-23 YONNONE BROS. AREA/LOT GRANTED
&24 MELROSE AVENUE R-4 #66-5 05/16/66
REQUEST FOR LOT AREA FOR LOTS 161, 162, 163. NO OTHER
INFORMATION AVAILABLE IN FILE.

13-11-4 PETRO, JOHN A. AREA VARIANCE GRANTED
MELROSE AVENUE #75-4 RB ZONE 3/3/75
CONST. OF SINGLE-FAMILY RESIDENCE W/ INSUFFICIENT SIDEYARD.
#93-45 - REQUEST OF TOBIO AND SUSAN PACIONE FOR 200 S.F. LOT AREA



McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.

RICHARD D. McGOEY, P.E.
WILLIAM J. HAUSER, P.E.
MARK J. EDSALL, P.E.
JAMES M. FARR, P.E.

- ☐ **Main Office**
45 Quassaick Ave. (Route 9W)
New Windsor, New York 12553
(914) 562-8640
- ☐ **Branch Office**
507 Broad Street
Milford, Pennsylvania 18337
(717) 296-2765

TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS

REVIEW NAME: RHODES FUNERAL HOME SITE PLAN
PROJECT LOCATION: 161 WALSH AVENUE
SECTION 13-BLOCK 5-LOT 29
PROJECT NUMBER: 95-20
DATE: 14 JUNE 1995
DESCRIPTION: THE APPLICATION INVOLVES THE CHANGE IN USE FOR
THE EXISTING BUILDING ON THE NORTH SIDE OF WALSH
AVENUE. A FUNERAL HOME IS PROPOSED. THE PLAN
WAS REVIEWED ON A CONCEPT BASIS ONLY.

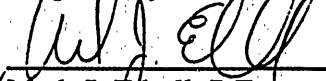
1. The property is located within the R-4 Zoning District, which does not permit funeral home establishments as a Use Permitted By Right or by Special Permit. As such, a Use Variance is required.
2. In addition to the required Use Variance, it appears that the project would require a variance with regard to off-street parking. Undertaking establishments and funeral houses require thirty (30) spaces per parlor or chapel, and, therefore, it is my understanding that this project would, therefore, require thirty (30) spaces. The plan appears to provide a total of fourteen (14) parking spaces; as such, a variance for insufficient off-street parking seems necessary.
3. I recommend that the Planning Board review this application on a concept basis, making any comments or recommendations to the Application. It is my understanding that the Applicant will then proceed to the Zoning Board of Appeals to seek the required variances.

**TOWN OF NEW WINDSOR
PLANNING BOARD
REVIEW COMMENTS
PAGE 2**

REVIEW NAME: RHODES FUNERAL HOME SITE PLAN
PROJECT LOCATION: 161 WALSH AVENUE
SECTION 13-BLOCK 5-LOT 29
PROJECT NUMBER: 95-20
DATE: 14 JUNE 1995

4. Should the Applicant be successful at the ZBA, the re-submitted plan to the Planning Board should include revisions, so as to make the plan complete for the required detailed site plan review. Some initial comments are as follows:
- a. The location plan should be corrected, in as much as the indicated project site is shown in the wrong location.
 - b. Details should be provided for site improvements including (but not limited to) pavement, curbing, retaining walls, etc.
 - c. The plan should include any site landscaping or similar improvements.
 - d. A lighting plan should be submitted.
5. The project sign should be located and detailed as appropriate.

Respectfully submitted,



Mark J. Edsall, P.E.
Planning Board Engineer

MJEmk

A:RHODES.mk

LEGAL DESCRIPTION

OWNERSHIP & MAILING ADDRESS

NET WINDSOR
LTS 81-86 + PL LTS 80-87 D P KELLY
LANDS

75X174X1R

75X181X1R

DEED DATE 12/17/58

12/20/77

10/25/78

MONROE ARMATURE CO INC

WALSH ROAD MD 26, NEWBURGH N.Y.

PALAMAR, MARIA
EST. OF FRANK BARBATO
21 ROUND LAKE AVE MONROE

My U. Realty Corp.
Palamar, Maria

RECORD OF OWNERSHIP

33 48 00
DISTRICT

13
SECTION

5
BLOCK

29.00
LOT

ACCOUNT NUMBER

E _____ N _____
GRID COORDINATE

CLASS CODE

ZONING

CARD NUMBER

ROUTING NUMBER

161 WALSH RD

PROPERTY ADDRESS

DATE
MO. YR.

TYPE
1 LAND
2 L & B

SALE PRICE

SOURCE
1 BUYER 3 FEE
2 SELLER 4 AGENT

VALIDITY
1 YES
2 NO

10 78

1 2

31,000

1 2 3 4

1 2

1 2

1 2

1 2 3 4

1 2 3 4

1 2

LAND COMPUTATIONS

PROPERTY CLASSIFICATION CODE

ASSESSMENT RECORD

0 NONE	N	ACTUAL FRONTAGE	EFFECTIVE FRONTAGE	EFFECTIVE DEPTH	UNIT PRICE	DEPTH FACTOR	ACTUAL PRICE	INFLUENCE FACTOR	LAND VALUE
LOTS	01	25.00	75.00	75.00	25	87	4800	[A] --	2175
1 REGULAR LOT	01	25.00	75.00	75.00	65	85	4125	03 [-] 2.0	33
2 MINUS LOT	L							[] --	
3 APARTMENT SITE	L							[] --	
SQ. FT.	S							[] --	
1 PRIMARY SITE	S							[] --	
2 SECONDARY SITE	S							[] --	
3 UNDEVELOPED	S							[] --	
4 RESIDUAL	S							[] --	
ACREAGE	A							[] --	
1 PRIMARY SITE	A							[] --	
2 SECONDARY SITE	A							[] --	
3 UNDEVELOPED	A							[] --	
4 RESIDUAL	A							[] --	
5 TILLABLE	A							[] --	
6 PASTURE	A							[] --	
7 WOODLAND	A							[] --	
8 WASTELAND	A							[] --	
9 HOMESITE	A							[] --	
0 TOTAL	A							[] --	
GROSS	G								
1 IRREGULAR LOT									
2 SITE VALUE									
3 RESIDUAL									
4 HOMESITE									
0 MINUS R.O.W.									
# 02									
NUMBER OF LAND ENTRIES									
TOTAL VALUE LAND									8200
TOTAL VALUE BUILDINGS									8200
TOTAL VALUE LAND & BLDGS.									16400

AGRICULTURAL - 100 110 - Livestock & Products 111 - Poultry & products 112 - Dairy products 113 - Cattle, hogs, & products 114 - Sheep & wool 115 - Apriary products 116 - Other livestock 120 - Field Crops 130 - Truck Crops - Mucklands Only 140 - Truck Crops 150 - Orchard Crops 151 - Tree fruits 152 - Vineyards 160 - Other fruits 170 - Nursery/Greenhouse 180 - Fur Products 190 - Fish/Game & Wildlife Preserves RESIDENTIAL - 200 210 - 1 Family Year Round 220 - 2 Family Year Round 230 - 3 Family Year Round 240 - Rural Residence w/Acreage 250 - Estate 260 - Seasonal 270 - Mobile Home UNUSED VACANT LAND - 300 310 - Residential 320 - Rural 330 - Commercial 340 - Industrial 350 - Urban Renewal	COMMERCIAL - 400 410 - Living Accommodations 411 - Apts. other than 412/413 412 - Condominium apt. 413 - Co operative apt. 414 - Hotel 415 - Motel 416 - Mobile home parks 417 - Camps & cottages 418 - Other transient lodging * - Other commercial RECREATIONAL - 500* COMMUNITY SVCS - 600* INDUSTRIAL - 700 710 - Manufacturing & Processing 720 - Mining and Quarrying 730 - Wells PUBLIC SVCS - 800* WILD AND FORESTED - 900 910 - Private Other Than 920 920 - Private Hunting/Fishing 930 - State Owned 940 - County Owned *See Detailed Listing for Divisions & Subdivisions
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

LAND	BLDG.	TOTAL
19		
19		
19		
19		
19		
19		
19		
19		
19		

BUILDING PERMIT RECORD

DATE	TYPE	AMOUNT	NUMBER
MO. YR.	1 DEMOL. 2 ADDN.		

GENERAL PROPERTY FACTORS

RESIDENTIAL PROPERTY FACTORS

MEMORANDA

NEIGHBORHOOD I.D.	NEIGHBORHOOD FACTORS	LOT FACTORS
07		
TOPOGRAPHY RATING 2 FAIR 3 POOR 4 VERY POOR	TYPE 1 RURAL 2 URBAN 3 SUBURBAN 4 SUBDIVISION	LANDSCAPING RATING 1 EXCELLENT 2 GOOD 3 FAIR 4 POOR 5 NONE
STREET OR ROAD 1 PAVED 2 UNPAVED 3 PROPOSED	TREND 1 IMPROVING 2 STATIC 3 DECLINING	DRIVEWAY 1 IMPROVED 2 UNIMPROVED 3 NONE
SIDEWALK 1 YES 2 NO	INFLUENCE ON SUBJECT PROPERTY 1 NONE 2 DEVALUING 3 ENHANCING	FRONTING TRAFFIC 1 LIGHT 2 MEDIUM 3 HEAVY 4 NONE
UTILITIES 1 WATER 2 SEWER 3 ELECTRICITY 4 GAS 0 NONE 1 PUBLIC 2 PRIVATE	DESIRABILITY RATING 1 EXCELLENT 2 VERY GOOD 3 GOOD 4 FAIR 5 POOR 6 VERY POOR	COMPARISON TO NEIGHBORING PROPERTIES 1 LOT 2 IMPROVEMENTS 1 TYPICAL 2 POORER 3 BETTER 4 NONE

COLE-LAYNE-JRUMBLE CO., APPRAISERS © 1972

Site Elevation 1 Below street

ORANGE COUNTY, NEW YORK

2 Level 3 Above street

PROPERTY DESCRIPTION

SECTION	BLOCK	LOT	TOWN OR VILLAGE	SPECIAL DISTRICT	ASSESSED VALUE			SEQ
				SCHOOL FIRE LIGHT WATER OTHER	LAND	IMPROV.	TOTAL	
13	05	02900	29 TOWN OF NEW WINDSOR	1 2 1 3 1	8200	8200	16400	N

OWNER NO.	LOCATION	DIMENSIONS	ACRES
35050	LTS 81-86 & PL. LTS 80 87 D P KELLY LANDS	75x181x12	
		075x174x1R	

OWNERSHIP RECORD

OWNER	DEED RECORDED		
	DATE	BOOK	PAGE
MONROE ARMATURE CO INC	12/17/58	1486	269
WALSH ROAD MD 26 NEWBURGH N Y			
WALSH ROAD, MD 26			
EST. OF HENRY BARTO	12/20/77	2087	1088
WALSH ROAD, MD 26	12/25/78	3114	119
L A B Realty Co.	11/58	42300	759
109 South Regent St. Port Chester NY 10573			
SANTORO ALEX & ROBERT KOHL	12/09/88	3052	216
161 Walsh Rd., New Windsor, NY 12550			

284/78

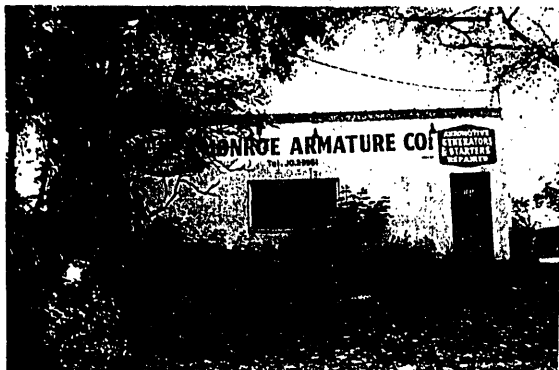
155/79

292/85

ORANGE COUNTY PROPERTY MAP RECORDS

AERO SERVICE
DIVISION OF LITTON INDUSTRIES

4/9/85 - LOT TAG



13-529

DESCRIPTION

LTS 81-86 + PL LTS 80 87
DP KELLY LANDS
75x 181 x IR

10/4/84

	19	1985	19	19
	7-200	10000		
ENTS	8-200	20000		
	10-200	30000		
EXEMPTION				
TAXABLE				

334800 13. 5 29.
SWIS S B L SUFFIX

PROPERTY ADDRESS: 161 WALSH RD.

OWNER: M.V. REALTY CORP.

MAILING ADDRESS:

SITE: 1 PROPERTY CLASSIFICATION: 489

EXEMPT (E OR N)

CARD OF GRID COORDINATES E

SALE PRICE: 60 000 DATE: 10-84

SALE PRICE: 22500 DATE: 12-88

SALES SOURCE: 1 BUYER 2 SELLER 3 FEE 4 AGENT
VERIFICATION VALID SALE: 0 NO 1 YES
SALES TYPE: 1 LAND 2 BUILDING 3 LAND AND BUILDING

292/85

LAND DESCRIPTION		VALUATION FRONTAGE	VALUATION DEPTH	UNIT PRICE	DEPTH FACTOR	ADJUSTED FF PRICE	INFLUENCE			LAND VALUE
0 NONE	N						CODE	1	%	
LAND CODES	LOT									
01 PRIMARY SITE	L									
02 SECONDARY SITE	L									
03 UNDEVELOPED	L									
04 RESIDUAL										
05 TILLABLE	S		SQ. FT							
06 PASTURE	S		SQ. FT							
07 WOODLAND	S		SQ. FT							
08 WASTELAND	S		SQ. FT							
09 MUCK	S		SQ. FT							
10 WATERFRONT	S		SQ. FT							
11 ORCHARD	A		ACRES							
12 REAR	A		ACRES							
13 HOMESITE	A		ACRES							
14 APT. SITE	A		ACRES							
15 PROPOSED ROAD	A		ACRES							
16 R.O.W.	A		ACRES							
17 OTHER	A		ACRES							
TOTAL										

INFLUENCE CODES
1 CORNER
2 TOPOGRAPHY
3 UNIMPROVED
4 EXCESSIVE FRONT
5 SHAPE OR SIZE
6 RESTRICTIONS
7 ECONOMIC MISIMPROVED
8 VIEW
9 OTHER
0 NONE

SITE DESCRIPTION: GENERAL PROPERTY FACTORS

NEIGHBORHOOD I.D.

ZONING: (SBEA Numerical Codes)

TRAFFIC: 1 LIGHT 2 MEDIUM 3 HEAVY

PEDESTRIAN TRAFFIC: 1 LIGHT 2 MEDIUM 3 HEAVY

NEIGHBORHOOD TREND: 1 DECLINING 2 STATIC 3 IMPROVING

PARKING: 1 INADEQUATE 2 ADEQUATE

ACCESSIBILITY: 1 INADEQUATE 2 ADEQUATE

WATER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC

SEWER: 0 NONE 1 PRIVATE 2 COMMERCIAL 3 PUBLIC

NEIGHBORHOOD TYPE: 1 RURAL 2 URBAN 3 SUBURBAN 4 SUB DIV.

LANDSCAPING: 1 NONE 2 AVERAGE 3 EXTENSIVE

OVERALL SITE DISIRABILITY: 1 POOR 2 TYPICAL 3 SUPERIOR

ROAD: 0 NONE 1 DIRT 2 GRAVEL 3 LOCAL PAVED 4 STATE

OTHER UTILITIES: 0 NONE 1 GAS 2 ELECTRIC 3 GAS/ELECTRIC

RECORD OF OWNERSHIP

1	L A B Realty Corp
2	SANTORO ALEX & ROBERT KOHL 12/88
3	L. 3052P. 216
4	
5	

SPECIAL DISTRICTS

SEWER	FIRE
PARK	WATER
SCHOOL	LIGHT
AUDIT CONTROL	
MEASURED BY: _____	DATE: _____
LISTED BY: _____	DATE: _____
SOURCE: 1 OWNER 2 SPOUSE 3 TENANT	

ORANGE COUNTY COMMERCIAL

Date 6/28/95, 19.....

TOWN OF NEW WINDSOR

TOWN HALL, 555 UNION AVENUE
NEW WINDSOR, NEW YORK 12553

TO Frances Roth 147 Sycamore Dr DR.
New Windsor NY 12553

DATE			CLAIMED	ALLOWED
6/1/95		Zoning Board Meeting	75 00	
		Misc. - 3		
		Dayton - 5		
		Dubetsky - 8		
		Roberts - 4		
		MCB - 7		
		Brown - 4		
		JaroscaK - 4		
		Rhodes - 14 63.00		
		Trifilo - 3		
		Francan - 10		
		Brisman - 5	337 50	
		ELTS - 8	412 50	
		<u>75 pp</u>		

RHODES, LINWOOD

MR. NUGENT: Referred by Planning Board - Request for use variancd for funeral home and area variance for 17 off-site parking spaces at 161 Walsh Road in R-4 zone.

Mr. Anthony Cappola and Mr. Linwood Rhodes appeared before the board for this proposal.

MR. NUGENT: Tell us what you want to do.

MR. BABCOCK: This is the old Crystal Home Cleaners building.

MR. CAPPOLA: I've got some pictures in case anybody wants to look at that and I have got a preliminary site plan. Basically, there's a pre-existing site, it's a pre-existing one story block building about 1,800 square feet. This is the footprint of the building. Crystal Cleaners is what was previously there. It's in an R-4 zone, size of the lot is 75 feet wide by 174 feet deep. The rear of the lot goes up pretty steeply down to High Street. What we're proposing is change in use to funeral home inside the existing structure. That use is not currently allowed in this zone and according to the zoning ordinance, it's 30 required parking spaces per funeral parlor, I think that is right.

MR. BABCOCK: That is correct.

MR. CAPPOLA: So we're proposing basically the maximum number of parking spaces that we can provide on this lot which would be 13 so we need 17 off-street required parking spaces to meet the requirement for the variance. The majority of the parking we're proposing is in the rear spaces in the front. We'd also provide a handicapped accessible parking space.

MR. NUGENT: You couldn't add more over in here?

MR. CAPPOLA: Right, you can see this dips off, there's probably about 20 foot of elevation rise again between High Street and the majority of this lot so it really goes up quite steeply. We'd have to fill in some area

in the corner, perhaps this corner too, actually, there's probably not too much more we can provide that way anyway.

MR. KANE: Mr. Chairman, I am not familiar with this building, but this was a prior commercial building?

MR. NUGENT: Yes.

MR. KANE: Why are they here for a use variance, commercial building, was that pre-zoning?

MR. NUGENT: Well, that's questionable, we have had other people apply for this building in 1978.

MS. BARNHART: Date was September 11, 1978.

MR. NUGENT: '78, we had a person apply and we were told at that time that it was in a PI zone. Now, they are saying it's an R-4, was that changed?

MR. BABCOCK: I can tell you that I have checked it like five times because of that statement the maps today clearly indicate that the line adjacent to this the property line is the PI and R-4 line and the maps clearly indicate that it is an R-4 at this point in time. I'm not sure how it got there, when it got there but it is now. To answer Mike's question as far as a commercial use, if you have one commercial use and you change that to another commercial use in a non-conforming zone, you either need a use variance or you need a special permit by the Zoning Board of Appeals.

MR. NUGENT: We don't give those.

MR. BABCOCK: That is correct, that is what the code says and although the Planning Board does the special permits, at this point in time--

MR. LANGANKE: They couldn't give a special permit.

MR. BABCOCK: The code says when it's changed from one non-conforming use to another non-conforming use, it has to be granted a special permit by the ZBA.

MR. CAPPOLA: Isn't the pre-existing use conforming as a service establishment?

MR. BABCOCK: Not in an R-4 zone.

MR. CAPPOLA: It's not?

MR. BABCOCK: No, R-4 is single family residential.

MR. CAPPOLA: I thought service as a service use it was okay, the pre-existing use as service type use but you're saying no.

MR. TORLEY: I have a question for our attorney. Where in the code and I have, I never saw a change in my book, but where in the code book was our discretion about that special permit withdrawn?

MR. BABCOCK: 4833.

MR. TORLEY: Maybe we can do it this way, if it was never withdrawn in that code book, it's not still active.

MR. CAPPOLA: We would be proposing a conforming sign.

MR. TORLEY: Conforming to what?

MS. BARNHART: To the code.

MR. TORLEY: We have to go non-conforming use, it's a question of what use.

MR. CAPPOLA: Which zone are we conforming to and which use are we conforming to?

MS. BARNHART: We should be able to answer that.

MR. REIS: Can I make a comment on behalf of what the fellas are trying to accomplish there? This building has been vacant for quite a while now, it's been a commercial building for as long as I know, I'm aware of, I'd like to see us be able to work out something for these fellas, if it's doable and workable, as long

as we give them direction to do it in for their use in this particular location. It would not be hazardous to the neighbors in any way, just to make it work, how can we can give them direction to do it?

MR. NUGENT: Well, I think at first my own personal opinion the first thing we need to do is determine if it can be changed by special permit and if so, go to the proper board instead of them dumping on us all the time.

MR. BABCOCK: It says 4824 is a non-conforming use. If you have commercial establishment in a residential zone, it's non-conforming. And the code says to change from one non-conforming use to another non-conforming use it needs special permit permission from the ZBA.

MR. NUGENT: We don't give special permits.

MR. BABCOCK: Well, that is what the code says.

MR. KREIGER: The problem with the--

MR. NUGENT: Town Board took that away.

MR. KRIEGER: Again, special permit, they didn't make the code consistent, the general special permit provision they took that, gave it to the Planning Board but they didn't change this, so this still says Zoning Board of Appeals.

MR. KANE: Which could be why they kicked it down to us.

MR. BABCOCK: Well, it's clearly now that 1978 this supposedly was a PI zone it's no longer a non-conforming use, that is the problem. If it was a PI zone in 1978 as commercial establishment, it was a conforming use so it wouldn't come under the 1966 grandfather clause, non-conforming pre-existing to the zoning, but if the, because the zoning changed after it was there.

MR. NUGENT: It never changed its use.

MR. BABCOCK: Zoning has changed.

MR. NUGENT: But the building didn't.

MR. BABCOCK: That is correct.

MR. KRIEGER: What he is saying it's not now a pre-existing non-conforming use because it was never non-conforming in its prior use it was conforming.

MR. BABCOCK: Right.

MR. KRIEGER: Well, that was in 1978, was it used in a non-conforming manner after, this is an open question, I'm sure the question that you don't know the answer for if it was used in commercial capacity after the zone was changed to R-4, it would then become a pre-existing, non-conforming use, may not have happened in '78, maybe in '79 or '80 or some subsequent year.

MR. TORLEY: Do we know whether the line was moved or somebody just merely misread it in '77?

MR. BABCOCK: That is correct, that is the problem also.

MR. NUGENT: It was definitely non-conforming use after that, after '78 that guy only moved out of there.

MR. LINWOOD: Couple years ago.

MR. BABCOCK: Well, non-conforming use, Jim, is a use that is in a zone that is not allowed that was there before the zone was established so if it was a PI zone which we don't know and I'm, it's going to take some research to find that out, it wouldn't be non-conforming.

MR. NUGENT: I have a problem with the whole thing simply because two doors away is a firehouse commercial, two doors to the other side of it is Hobart or was Hobart, I'm not sure, across the street is a flower shop and down the street is a pocketbook or was pocketbook shop, I'm not sure what it is now but the whole area there commercial.

MR. BABCOCK: I agree with you, I don't know what to do with it.

MR. TORLEY: And that actually makes it more difficult for us if it is because then it loses its unique criteria.

MR. KRIEGER: If everything else is commercial, save this one parcel, that makes this parcel unique.

MR. TORLEY: Okay.

MR. KRIEGER: Looking from the other end of the tube.

MR. NUGENT: But right next door to it is a single-family house.

MR. KRIEGER: Rumsey's place.

MR. NUGENT: No, that is multi-family house, that is another problem. Babcock is single.

MR. RHODES: And Mr. Russell is on the other side.

MR. RHODES: Talked to both of them and they are a hundred percent for this.

MR. TORLEY: We'd all like to see some use for the structure.

MR. KANE: I still don't understand where we can't do the special permit looking through this and it says that we still have the ability and we also have the ability for a special permit to be periodically renewed.

MR. TORLEY: Different special permit.

MR. KANE: It's for use.

MR. BABCOCK: Back when that code was written, Mike, the ZBA issued special permits so it would make sense when that was, when the town board took away the special permit from the ZBA and give that authorization

to the Planning Board, that makes that law it doesn't make it very consistent. It's inconsistent.

MR. KRIEGER: They changed the special permit law, they didn't go through and change the other laws that were dependent on it, like this one.

MR. TORLEY: So what does that mean?

MR. KANE: Means we're left holding the bag, is what it means.

MR. TORLEY: That means we can't--

MR. KRIEGER: Well, you don't even reach that question yet because you don't know whether it's a, whether it meets the criteria for a special permit, much less who is going to grant the special permit. You haven't even gotten to that question yet. If it was at some point a non-conforming use, then you do reach the question of whether the board can grant it or not. But first you have to establish that at some point it was a non-conforming use.

MR. BABCOCK: But still Andy, if you have an office, a lawyer's office that is a non-conforming use and now you want to change that lawyer's office to a funeral home, which is, it's definitely a change of use of that property, an office to a funeral home is two different use groups.

MR. KRIEGER: There's no question that that proposal is to propose a change of use and that it would be a change of a non-conforming use.

MR. BABCOCK: Right.

MR. KRIEGER: Giving rise to the question of who can grant, which board can grant the special permit in that record. What I am saying is in order to give rise to that question it first must be established that at some point it was a non-conforming use and that appears to be somewhat now somewhat in question.

MR. CAPPOLA: If the last existing use was Crystal

Cleaners was being used recently then it's a non-conforming use, correct?

MR. KRIEGER: Do you know when Crystal Cleaners last used it?

MR. CAPPOLA: We think it's been three or four years.

MR. RHODES: 1992.

MR. TORLEY: Does that wipe it out by the lapse of time?

MR. BABCOCK: It says if it's been discontinued for a period of two years, cannot be re-established.

MR. TORLEY: It's moot anyway.

MR. KRIEGER: So, it if it hasn't been--

MR. TORLEY: Which is actually sort of a relief.

MR. BABCOCK: The reason I wrote it up as a use variance is cause I didn't know any other classification to put it in.

MR. KRIEGER: Makes the whole special permit moot.

MR. NUGENT: The only way I see to do this is to to get it clean is to go for a use variance.

MR. BABCOCK: Right, that is what I wrote it up for because I didn't know of anything else.

MR. TORLEY: The other thing the applicant might want to do in parallel is to request the town board for a change on the zoning map because clearly what's on the ground there does not match what the zoning code says.

MR. BABCOCK: Single-family house on either side of it.

MR. TORLEY: But everything else you say.

MR. BABCOCK: I know. Where do you put the line, that is the problem.

MR. NUGENT: That whole area there is so mixed, it's incredible.

MR. BABCOCK: Quite honestly, the single-family house that is owned by Babcock here.

MR. RHODES: Babcock owns the house to the west end of the building.

MR. BABCOCK: That is in a PI zone.

MR. RHODES: Yes, that is exactly what he said, that one house single-family house that is where the line is.

MR. TORLEY: The two approaches are not exclusive, you can pursue this while you talk to the town board about changing the map.

MR. KANE: But the use variance itself we're required by state law to meet certain criteria, we can't change that and we can't have any leeway either way and one of the hardest things is financial, the financial.

MR. TORLEY: He may have a shot.

MR. KANE: It can't be used.

MR. TORLEY: Who would buy that as a residential facility?

MR. KRIEGER: Well, financial hardship has to be proven in dollars and cents proof, you can't come in and say gee whiz, nobody would do it.

MR. KANE: Because our feelings say we agree, nobody would buy that for a house. You have to show that on paper and you'd also have to show that you can't use it for any other uses that are on the bulk table.

MR. RHODES: The present owner is having problems trying to sell the building. If I can't use this building for funeral home, I want my money back, that is my agreement.

MR. KANE: For us to make a decision we're required by law to have that stuff on paper and proven to us on paper. I'm not saying I don't side with you, I'm saying that our hands are very well tied with use variances.

MR. TORLEY: Legislature has made in their wisdom use variances next to impossible to grant.

MR. CAPPOLA: Right, that is the state.

MR. TORLEY: This one has a shot, I think, because of the neighborhood and you may be able to make the claim.

MR. KRIEGER: What you have to do in order to prove a use variance here among other things and I have a list of criteria here but the first one is to prove that the property cannot realize a reasonable return for any of the use specified for that zone. Now what that means is, I'm sorry, what you have to do is prove that by dollars and cents proof. In other words, you have to have somebody come in and testify that this is what its value for this use is and go right on down the list and for this use and for this use and present evidence to the board that it lacks, if used for any of those uses, it will not produce a reasonable return. It has to be dollars and cents proof. It can't be gee whiz, everybody knows.

MR. CAPPOLA: Right.

MR. LANGANKE: What zone did we decide this was?

MR. KRIEGER: R-4.

MR. KANE: We didn't.

MR. LANGANKE: How many uses are permitted in R-4?

MR. NUGENT: Single family.

MR. LANGANKE: So he doesn't have a whole list to go down. He's got a single family house.

MR. KANE: You can see the general feeling her is that we'd really like to work it out but we need to find a way to do it.

MS. BARHNART: Who is the owner?

MR. CAPPOLA: Alex Santori.

MR. BABCOCK: It's agricultural or single family too.

MR. TORLEY: No farms are going to go there.

MR. LANGANKE: That shouldn't be that difficult, this big building.

MR. CAPPOLA: No.

MR. KRIEGER: Just so you know, there are ten listed used permitted by right, there are ten items on here.

MR. LANGANKE: What are they?

MR. NUGENT: Is one a funeral home?

MR. KANE: No.

MR. KRIEGER: Commercial agricultural, town buildings, public parks, commercial forestry, outdoor recreational facilities, places of worship, public elementary and high schools, one family detached dwellings, that takes up three of them actually.

MR. RHODES: You mean to tell me you can put a church there?

MR. CAPPOLA: Who would this board consider an authority at assessing that list through a market value, that is what you're asking to us do, in other words, we can go down and say this as a single family dwelling, what's the value of this.

MR. BABCOCK: You need a licensed appraiser to do that.

MR. KRIEGER: Basically, that is the expert that the board would consider.

MR. LANGANKE: We're familiar with the area.

MR. KRIEGER: I wouldn't rule out any others but certainly that would be first on the list.

MR. CAPPOLA: What about a real estate broker?

MR. KRIEGER: Possibly, if he or she can show by dollars and cents proof what the value of its use would be.

MR. CAPPOLA: Okay.

MR. TORLEY: An appraiser might be better. I urge you to carry on a parallel to the town board, you have a very good case, clearly there's something screwy with the map of this area, doesn't fit what's there.

MR. KRIEGER: One of few one-family houses is already in an industrial zone.

MR. BABCOCK: If you look, I don't have my table, I don't think the funeral parlor is allowed in the PI zone, so to move the zoning it wouldn't, it would be a PI zone, still be a use variance.

MR. LANGANKE: And would probably be tougher.

MR. BABCOCK: One down on Walsh, the American Felt and Filter office building that needed one so I'm pretty sure, it's not listed.

MR. NUGENT: And that is a big piece of property.

MR. REIS: You have got a vote of confidence from the board but you have got an uphill battle to accomplish your needs.

MR. CAPPOLA: I understand but I think we can provide the information that you are asking for. I think it's doable given the list and given the re-sale of the building.

MR. NUGENT: Do you want to go on or come back?

MR. CAPPOLA: No, I think we want to go on.

MR. KRIEGER: So that you know the use variance application you're also going to have to comply with the SEQRA requirements.

MR. LANGANKE: Short form environmental assessment.

MR. CAPPOLA: We have already submitted one EAF to the Planning Board.

MR. KRIEGER: That is the Planning Board. You have to resubmit it here. It may be the same one but there's no interoffice transfer within town hall.

MR. RHODES: All the immediate neighbors are waiting for the date, they'll come in, they are willing to come in.

MR. NUGENT: Are there any further questions by the board?

MR. TORLEY: I move that we set up Mr. Rhodes for his requested use variance for 161 Walsh Road.

MR. KANE: Second it.

MS. BARHNART: Parking also, there's area variance involved here.

ROLL CALL

MR. KANE	AYE
MR. LANGANKE	AYE
MR. TORLEY	AYE
MR. NUGENT	AYE
MR. REIS	AYE

MR. KRIEGER: There are separate criteria, one for the use, one for the area. If you'd address yourself to those when you make your presentation at the public hearing, it would be helpful. Also, if I could see a copy of the existing deed and title policy of the premises, that would be helpful. Again, I don't need

June 26, 1995

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to keep it since I understand you don't, your client is the contract vendee, the copies would be sufficient, provided they are accurate.

MR. CAPPOLA: Okay, we can get a copy of the deed.

MR. NUGENT: Okay, good night.

PUBLIC NOTICE OF HEARING BEFORE
ZONING BOARD OF APPEALS
TOWN OF NEW WINDSOR

PLEASE TAKE NOTICE that the Zoning Board of Appeals of the TOWN OF NEW WINDSOR, New York, will hold a Public Hearing pursuant to Section 48-34A of the Zoning Local Law on the following Proposition:

Appeal No. 36

Request of LINWOOD RHODES

for a VARIANCE of the Zoning Local Law to permit:

A funeral home in an R-4 district with insufficient off-street parking;

being a VARIANCE of Section 48-9 - Table of Use/Bulk Regs., Cols.

A and O;

for property situated as follows:

161 Walsh Road, New Windsor, N. Y. 12553

known as tax lot Section 13 Block 5 Lot 29.

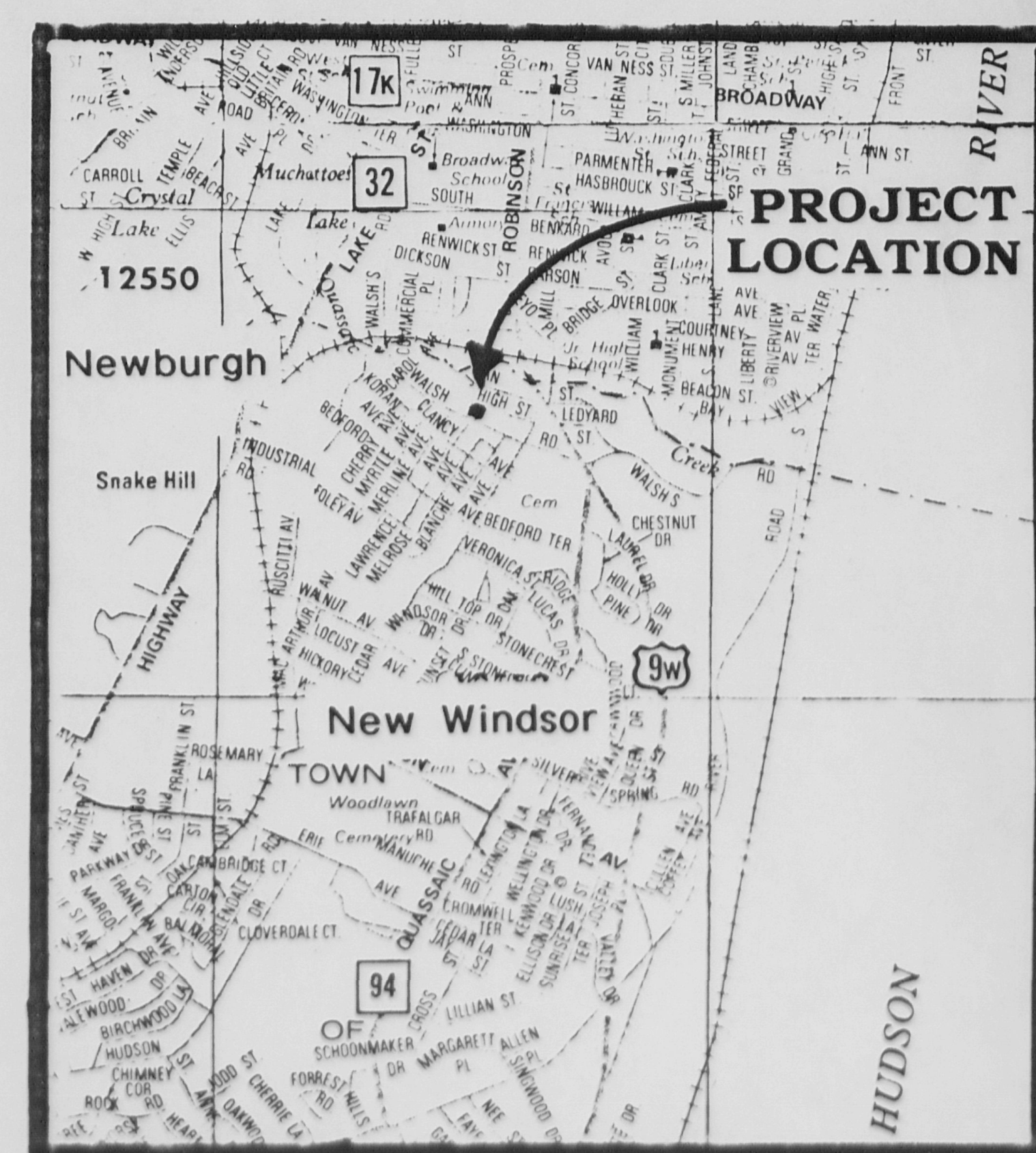
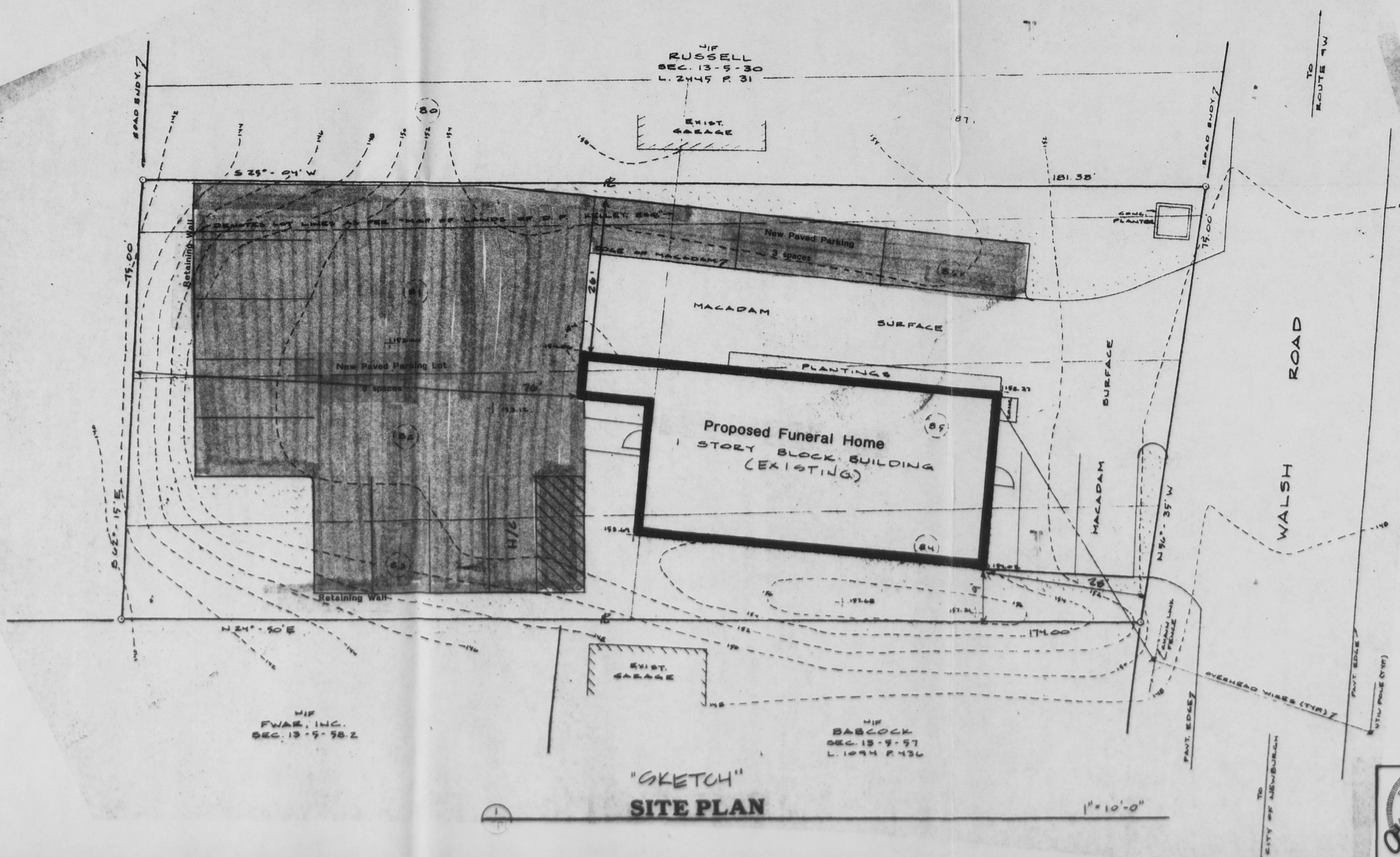
SAID HEARING will take place on the 10th day of July,
19 95, at New Windsor Town Hall, 555 Union Avenue, New Windsor,
New York, beginning at 7:30 o'clock P. M.

JAMES NUGENT
Chairman

Zoning Requirements for R-4		
Requirements	Required	Actual
Minimum Lot Size		13,350 SF
Lot Width		75 Feet
Max Width @ Building Line		75 Feet
Front Yard Setback		30 feet
Rear Yard Setback		76 feet
Side Yard Setback		8 ft / 29 ft
Max Building Height		14 feet
Required Lot Frontage		75 Feet
F A R Ratio		
Development Ratio		
Off Street Parking	30	13

- Site Plan Notes:**
1. Name of project is "A Funeral Home Conversion at 161 Walsh Rd, New Windsor, N.Y. ". The size if the lot is approximately 13,350 SF S/B/L is 13/5/29.
 2. The project applicant is Linwood Rhodes, Jr. 37 South St., Highland Falls, N.Y. 10928.
 3. The property owner is Alex Santoro and Robert Kohl.
 4. Building Info:
 - Proposed Use - Funeral Home, C5 occupancy
 - Existing 1st Floor Total - 1,895 SF
 5. Boundary, topography, and Lot information from Vincent J. Doce, Associates, L.L.S, May 22, 1995

HIGH STREET



Anthony J. Coppola
Architect
175 Liberty St.
Newburgh, N.Y. 12550
Tel: 914-561-3559
Fax: 914-561-2051

Project: **FUNERAL HOME CONVERSION AT 161 WALSH RD. NEW WINDSOR NY**

"SKETCH" SITE PLAN

Date: 6/6/95 Revised: Drawing Number: **SP1 OF 1**